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# High-Impact Barriers to Early Care and Education Facility Development

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# 1. Introduction & Context

## A NOTE ON RESEARCH METHODOLOGY AND INTENT

*Much of the research presented in this report is derived from conversations and survey responses provided by child care providers, advocates, architects and regulating agencies. It is important to note that the findings from this qualitative data are based on the experiences and perspectives shared by these participants. The project team emphasizes that the purpose of this report is not to criticize or undermine anyone's work or efforts related to the development of child care facilities, and the team recognizes and appreciates the dedication and good intentions of all individuals and organizations involved in providing and supporting child care in Oregon.*

*However, to effectively address the challenges facing the development of child care facilities, it is crucial to have an open and honest discussion about the processes, obstacles, and experiences encountered by those directly involved. By accurately reflecting the insights shared by engagement participants, the project team aims to identify areas for improvement and foster constructive dialogue to find solutions and create a more supportive environment for the development of child care facilities. The project team approaches this report with respect for the work being done in the sector and with the shared intention of enhancing the quality and accessibility of child care services for families and communities.*

The purpose of this project, established by House Bill (HB) 2727 (2023), is to review specific barriers to siting, building or expanding child care facilities and prepare a report summarizing findings and recommendations. The bill directs the Department of Land Conservation and Development (DLCDD) to do this work, in consultation with the Department of Early Learning and Care (DELC) and to convene a work group of child care providers, regulators, advocacy partners and other affected groups that together, represent the geographic, racial, ethnic, and gender diversity of Oregon.

The project includes three key phases:

- ◆ **Establishing background**, context and providing an overview of regulatory agencies involved in the development of child care facilities in Oregon.
- ◆ **Researching barriers** relating to land use and zoning and building codes through a review of state and local regulations and engagement with regulatory agencies and child care providers.
- ◆ **Developing recommendations to reduce barriers** and expanding early learning and care facilities and reducing disproportionate racial and regional disparities in accessing early childhood care and education facilities.



The work group held their first meeting in February 2024. The meeting focused on confirming the role of the work group, setting group agreements, reviewing the project scope, providing feedback on a [background memo](#), and engaging in the first discussion on barriers encountered during the development process of child care facilities.

Once a shared understanding of the child care regulatory framework was established, the DCLD project team shifted focus to understanding barriers within the regulatory context through the lens of child care providers and regulatory agencies. This report has been prepared for the second work group meeting. It summarizes high-impact barriers uncovered from research and outreach efforts that child care facilities may face during the development process, including land use and zoning, building codes, and permitting procedures. This research phase included the following components:

- ◆ A high-level local code review of development regulations in five jurisdictions in Oregon represented on the work group: The cities of Bend, Portland, Coos Bay, along with Benton and Clatsop counties.
- ◆ Insights from two surveys, focus groups, and interviews with child care providers and regulatory agencies.
- ◆ Case studies that highlight unique provider experiences and the regulatory challenges they faced during the process.

The information within this report and the feedback received during the second work group meeting in late May 2024 will serve as the basis for developing recommendations to address barriers during the next phase of work. Staff will present preliminary recommendations during the third work group meeting in late July 2024.

## KEY TAKEAWAYS FROM BACKGROUND MEMO

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The background memo provided context and established a shared understanding of the different types of early childhood care and education facilities and providers, and the role of different agencies in regulating and permitting the development of the varieties of early childhood care and education facilities.<sup>1</sup> There are three core types of licensed child care facilities this study focuses on due to their inherent interaction with the development process. They include:

- ◆ **Registered Family Care Homes:** An early childhood care and education facility in a dwelling with a Registered Family Child care License that may enroll up to 10 children.
- ◆ **Certified Family Care Homes:** An early childhood care and education facility in a dwelling with a Certified Family Child care License that may enroll up to 16 children.
- ◆ **Child Care Centers:** An early childhood care and education facility—other than a family child care home—that has a Certified Child care Center License.



## KEY TAKEAWAYS FROM BACKGROUND MEMO (CONTINUED)

Certain types of providers and early childhood care and education programs are not required to be licensed through the Care Child care Licensing Division and generally do not engage with the development process, so they will largely fall outside the scope of this project.

The background memo provides an overview of the research topics outlined in HB 2727, which includes **zoning or land use regulations** (e.g., height, lot size, and parking requirements) **building codes** (e.g., requirements for fire or earthquake resistance), and **permitting and procedures** (e.g., building permits, planning department permits such as design or conditional use review, etc.). The background memo establishes key regulators at both the state and local levels to provide an understanding on where layers of regulations interact and who administers them.

### Summary of High-Impact Barriers

- ◆ **Layers of regulatory agencies:** Providers need to navigate the requirements of several agencies (state, county, city, and child care licensing) to get necessary approvals. Agencies are often separate from each other, with different or conflicting interpretations of statutory requirements.
- ◆ **Regulatory discrepancies:** Land use and zoning regulations, building codes and licensing requirements contradict each other in ways that make implementing regulations a challenge for each regulatory agency. This can lead to risk, additional costs, and construction delays for providers.
- ◆ **Site Suitability:** Land use, zoning and building code regulations and procedures, along with state child care licensing requirements put significant limitations on the amount of suitable sites and buildings eligible for child care, particularly centers. When a site or building lacks key zoning and occupancy designations, providers are often required to go through lengthy and expensive land use processes and building renovations.
- ◆ **Comprehensive understanding of requirements:** Complex and sometimes inaccessible regulatory landscapes often require providers to hire consultants to help them navigate an early due diligence process to obtain comprehensive information on the requirements related to their site, building or home. However, even when hiring consultants or attorneys, providers perceived a lack of commitment from local staff when requesting early information on requirements needed to make well-informed decisions, creating risk for providers. This may stem from a lack of confidence in inconsistent legal interpretations of development regulations across local departments.



## Zoning and Land Use

- ◆ Zoning codes and process requirements are not typically user-friendly, inconsistent across jurisdictions, and local staff often do not have capacity to offer technical support to providers through the process.
- ◆ The recent classification of in-home child care as a residential use outlined in House Bill 3109 (ORS 329A.440, which became effective on January 1, 2022) has created significant confusion for how jurisdictions should process permit applications for child care facilities, including requirements for home occupation permits, business licenses, and more. This statute also contradicts state building code regulations, which do not categorize child care as a residential use.
- ◆ Many jurisdictions haven't updated their local zoning codes to comply with new regulations outlined in ORS 329A.440. This has caused confusion for local implementation related to:
  - Definitions that do not consistently align with state land use and state licensing definitions. For example, some definitions artificially limit capacity for child care businesses by placing lower thresholds on the number of children allowed per facility.
  - Many jurisdictions have not updated their permitted use tables and procedures to reflect child care uses allowed by right under ORS 329A.440.
- ◆ Child care centers are typically a conditional use in residential zones. These permits frequently have additional land use requirements, such as extra documentation or studies, higher fees, or infrastructure improvements.
- ◆ Special regulations or processes, such as conditional use permits, do not provide certainty that a provider will receive their permit. Special processes often require site control, (typically ownership of the site, but could also encompass a long-term lease) which can create risk for providers when there is uncertainty in the outcome of the development process.
- ◆ The location of a child care facility in a rural (outside an Urban Growth Boundary) versus urban environment can impact its development in different ways. In rural areas, there may be more restrictions on permitted uses and additional approval processes. In urban areas, child care may be allowed more broadly, but may be subject to more stringent design and development standards.

## Licensing Requirements and Building Codes

- ◆ Oregon's child care licensing limit of 16 children for in-home facilities, regardless of home size or provider capacity, prevents providers from expanding their businesses without moving to a certified center, which can present substantial barriers for providers looking to grow their business in smaller ways.
- ◆ Incongruent definitions between The Department of Early Learning and Care, the Oregon Structural Specialty Code, and new requirements under ORS 329A.440 for



regulating in-home child care as a residential use has caused confusion for local jurisdictions attempting to permit in-home child care in structures other than a detached single-family home. Currently, there is no clear path for allowing child care in multifamily housing units.

- ◆ Challenging building code and child care licensing facility requirements, particularly related to a change in occupancy, often renders surplus and practical buildings for child care such as school or churches—or more affordable commercial spaces such as older buildings—out of reach for many providers due to the expensive processes and renovations required.
  - Changing a building to meet either E or I-4 occupancy standards can trigger building renovation requirements based on the increase in risk categorization. Requirements could include installing sprinklers, seismic and accessibility upgrades.<sup>1</sup>
- ◆ Child care facilities are subject to a range of building requirements, regulated across multiple agencies at the state and local level, including, the Department of Early Learning and Care, Oregon Building Codes Division, the Oregon Health Authority, and the Oregon Department of the State Fire Marshal, along with county and city building departments. Providers noted that requirements, particularly for open space, plumbing fixtures, and fire safety can also require expensive building renovations for both homes and centers. Even if providers can afford renovations, finding space that has the potential to meet licensing facility requirements can be difficult.
- ◆ Since building code provisions are separate from the land use process, building code and associated fee and process requirements may not be clearly communicated to child care providers during the land use process. Providers may be overwhelmed when confronted with these additional steps, underscoring the importance of obtaining comprehensive information early in the planning stages.
- ◆ Other requirements that are associated with the building permit process (but may not be directly related to obtaining a building permit), including septic system capacity upgrades, environment mitigation, and frontage improvements often take providers by surprise during the development process and have significant costs associated with them, rendering a project financially infeasible for some.

## Potential and Disparate Impacts

- ◆ Rural jurisdictions may have less capacity to offer providers technical assistance needed to navigate the development process efficiently. However, survey results showed that providers in urban areas—particularly in the Portland metro area—

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<sup>1</sup> In the 2022 Oregon Structural Specialty Code, early childhood care and education facilities are classified under three occupancy groups. Education Group E, day care facilities include buildings occupied by more than five children older than 2 1/2 years of age who receive educational, supervision or personal care services for fewer than 24 hours per day. Institutional Group I-4, day care facilities include buildings occupied by more than five persons of any age who receive custodial care in a place other than their primary homes for fewer than 24 hours per day. Residential Group R-3 buildings include home-based registered or certified family child care facilities located within a dwelling.



reported more challenges with zoning, building codes, and permitting processes than in rural areas due to the complex nature of the regulations and the many departments involved in the development process.

- ◆ Child care centers, particularly those in churches, tend to face greater difficulties than child care homes in complying with land use and building codes, burdening households who seek child care within their religious institutions and Black families who more often utilize centers for child care.<sup>2</sup>
- ◆ Racial disparities in homeownership rates in Oregon limit opportunities for communities of color —especially Native Hawaiian/Pacific Islander and Black households, and Native Alaskan/Native American —to start home-based child care businesses.<sup>3</sup>

## Research Methods

To gain a comprehensive understanding of the barriers and challenges faced by early childhood care and education providers in Oregon, the project team employed a range of research methods, including:

- ◆ **Local Code Review:** Provider experiences with the development process vary significantly from jurisdiction to jurisdiction. To better understand the range of regulations for early childhood care and education facilities across the state, a high-level review of zoning, building code, and permitting policies was prepared for the five jurisdictions represented on the work group (Coos Bay, Benton County, Clatsop County, Bend, and Portland).<sup>4</sup>
- ◆ **Hypothetical Scenarios and Case Studies:** To demonstrate the unique experiences child care providers face when engaging in the development process, four hypothetical scenarios were outlined to illustrate common hurdles and four real case studies of child care providers in Oregon who have encountered barriers or challenges resulting from regulatory process were included. Case studies were identified through engagement with the work group and community outreach with providers across the state.
- ◆ **Interviews and Focus Groups:** To hear directly from regulators and providers impacted by the regulatory process of developing or expanding a child care business, in-depth interviews and focus groups were conducted. Ultimately, six interviews with providers and architects were held, as well as three virtual focus groups: one for

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<sup>2</sup> The Urban Institute, [Caring for Children of Color: The Child Care Patterns of White, Black, and Hispanic Children under 5](#) (2006). According to the study, Black children are the most likely of the three groups to be enrolled in early childhood education and are much more likely to be enrolled in a child care *center* than White or Hispanic children.

<sup>3</sup> Oregon 2021 1-year PUMS.

<sup>4</sup> House Bill 2727 requires the work group to develop recommendations that support the expansion of early learning and care facilities in this state, and specifically for expansion in the five jurisdictions represented on the work group: Clatsop County, Benton County, Coos Bay, Bend, and Portland. To develop future recommendations, the project team conducted a local review of each jurisdiction represented on the work group to understand any nuanced barriers that exist within them.



providers and two for different types of regulators across Oregon, including staff from local and state agencies.

- ◆ **Surveys:** Two surveys were conducted, one for providers and one for local jurisdictions.
  - **Provider survey:** To ensure a broad group of providers were engaged, a survey was distributed to better understand trends related to provider experience with land use regulations, building codes, and permitting procedures. Two hundred and seventeen responses were received from providers across Oregon.
  - **Local jurisdiction survey:** The Department of Land Conservation and Development developed a set of scenarios to give local government staff the opportunity to indicate how they would approach land use review and permitting for various child care facilities under different circumstances. The survey received 73 responses from local staff across Oregon.

By gathering data from various sources and perspectives, the project team aimed to identify the range of regulations, policies, and experiences that impact providers across Oregon.



# 2. Land Use and Zoning

## CHAPTER 2 OVERVIEW

New early childhood care and education facilities are subject to many state and local land use regulations and procedures. This section describes the following elements:

- ◆ State land use regulations for early childhood care and education facilities
- ◆ Role of site control
- ◆ Land use definitions and permitted uses
- ◆ Special procedures, permit timelines, and permit application requirements
- ◆ Differences between urban and rural designations

## CHAPTER 2 KEY TAKEAWAYS

Providers emphasized zoning and land use permits as a source of risk and uncertainty, with unclear requirements, discretionary approvals, and unexpected costs and delays.

- » **State Law:** There is a lack of clarity for how recent changes to state law related to the land use and zoning of child care facilities are to be implemented locally.
- » **Due diligence:** Understanding whether a parcel will require additional upgrades or permits to comply with zoning requirements can take significant time and upfront costs that cannot be recovered if they are unable to occupy the space.
- » **Unclear requirements:** Permitting procedures and requirements are not intuitive and often confusing, especially for providers without development experience.
- » **Policy discrepancies:** Misalignment between state and local land use regulations can create administrative challenges for both city and county staff processing applications and providers researching the feasibility of opening a new center or home-based care facility.
- » **Special procedures and requirements:** Special procedures and requirements (e.g., conditional use permits) can introduce significant time, costs, and risk into the development process, especially for smaller or less resourced providers.
- » **Urban and rural development:** Rural areas (outside the UGB) may impose more restrictions on permitted uses, have limited infrastructure, and require additional approvals, while urban zones may allow child care facilities more broadly but have more stringent design and development standards that can increase costs.



Land use refers to the way in which land is utilized and managed, including how land should be allocated for purposes such as residential, commercial, industrial, agricultural, recreational, or conservation areas. Land use planning envisions future development in specific areas, while zoning regulates local land use with guidelines and restrictions to regulate property development in cities, towns, and counties. Communities are divided into districts or zones, each with specific regulations governing permitted uses, building size, density, parking, open space, and other development standards.

In Oregon, the Department of Land Conservation and Development (DLCD) sets statewide rules for land use decisions; for implementation of these rules, DLCD reviews local plan amendments for compliance with statewide planning goals. At the local level, local governments (defined here as counties, cities, and smaller jurisdictions such as towns) establish zoning codes that align with the statewide land use goals. While local governments generally follow state guidance, their planning departments, as well as local councils or commissioners, can maintain significant influence over local land use and development decisions. In recent years, Oregon's legislature has also become more active with respect to child care specifically, writing statutes directly affecting land use and zoning for child care facilities.

## State Land Use Regulations for Early Childhood Care and Education Facilities

In 2021, the Oregon Legislature passed legislation intended to expand allowances and streamline processes for the development of early childhood care and education facilities, and House Bill 3109 (ORS 329A.440) became effective on January 1, 2022. This bill implemented several changes for both child care centers and family child care homes to allow child care uses more broadly without additional permitting requirements. The statute sets forth several requirements for local jurisdictions:

- ◆ Requires local governments to allow residential dwellings located in an area zoned for residential or commercial uses to be used as a family child care home for up to 16 children: defines home-based early childhood care and education facilities as residential uses for zoning purposes. The statute also prohibits local governments from imposing land use regulations, special fees, or conditions on the establishment or maintenance of a family child care home more restrictive than those imposed on other residential dwellings in the same zone.
- ◆ Requires local governments to allow child care centers for more than 16 children as a permitted use in all areas zoned for commercial or industrial use, except in industrial zones designated as heavy industrial or farm use. The statute also prohibits local governments from imposing land use regulations, special fees, or conditions on the establishment or maintenance of a child care center in an area zoned for commercial or industrial use that are more restrictive than those imposed for other uses in the same zone.



While these changes are intended to allow child care more broadly and ease the procedural burden on providers and regulators, requiring in-home child care facilities to be regulated as a residential use has created confusion for how jurisdictions are allowed to process permit applications related to child care, including requirements for home occupation permits or business. This statute also contradicts state building code regulations and environmental quality, which do not categorize child care as a residential use.

Additionally, the bill and subsequent changes to state law were not consistently obvious to local land use officials in the way most land use bills are because the change to rule is in ORS Chapter 329 – Child Care, not ORS 195, 197, 197A, 227, 215 or other more typical land use rule locations. As a result, many jurisdictions have yet to update their municipal codes, which has led to confusion for both local planning staff and providers looking to start or expand a child care business.

## Site Control

To start the process of obtaining the required permits for a site, a provider will likely need to have control over the site — either through ownership or a lease agreement with the property owner. This concept is often referred to as site control. However, it's important prior to purchasing or leasing a property to ensure it can be used for the intended purpose, which can often require expensive due diligence. Doing so can also take time, during which owners or landlords may sell or lease to another party. Due diligence may include:

- » **Zoning and Land Use Regulations:** Providers need to confirm land use allowance and permitting procedures to understand if and what kind of early childhood care and education is permissible on the property, and what on and off-site improvements or permits might be required.
- » **Building plans:** Child care facilities must adhere to specific building codes and requirements to ensure the safety and well-being of children. Verifying that the property can be modified to meet these standards is critical. This may require initial research and drawings provided by an architect or engineer, which can cost tens of thousands of dollars in consulting fees.<sup>5</sup>
- » **Studies:** Providers may need to commission various studies or inspections to understand what upgrades or requirements the property may need, such as tests for lead, asbestos or environmental impacts.

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**37%** of home-based providers and **39%** of center-based providers said that city or county staff either did not have capacity or were unable to resolve their zoning issues.

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<sup>5</sup> The Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) and the Oregon State Board of Examiners for Architecture (OSBAE) require building changes for changes of use and structures over 4,000 square feet to be overseen by a registered design professional per the 2022 Reference Manual for Building Officials, provided by OSBEELS, OSBAE, and the State Building Code Division.



- » **Cost estimates:** Providers often must commission cost estimates for the work once they understand the range of upgrades required by the local jurisdiction and child care licensing agency. Studies to estimate a project’s total cost can be thousands of dollars.

The upfront research on a property can require substantial investment of time and resources to ensure its suitability for child care. Providers must have access to timely and comprehensive information to make well-informed decisions about a potential location before securing site control to begin the development process. However, even after conducting thorough research, providers may still need to invest in a site without any guarantee of obtaining approvals or being able to afford the necessary modifications and requirements. This uncertainty can pose significant financial risks, particularly for providers with limited resources.

## Definitions and Permitted Uses

Zoning codes often define each use identified in a jurisdiction’s permitted use table (e.g., “day care center”). The Department of Early Learning and Care has specific definitions for early childhood care and education facilities related to how each are or are not licensed; however, local jurisdictions do not always use these same definitions in their local zoning codes and permitted use tables. The differences in definitions can intentionally or unintentionally limit the scale of facilities otherwise allowed by state law.



## LOCAL CODE REVIEW

House Bill 2727 requires the work group to develop recommendations that support the expansion of early learning and care facilities in this state, and specifically for expansion in the five jurisdictions represented on the work group: Clatsop County, Benton County, Coos Bay, Bend, and Portland. To develop future recommendations, the project team conducted a local review of each jurisdiction represented on the work group to understand any nuanced barriers that exist within them.

### Definitions

Of the five jurisdictions, Clatsop County, Bend and Portland's definitions for early childhood care and education facilities align with the definitions set by the Department of Early Learning and Care that are also utilized in ORS 329A.440.

Per the Department of Early Learning and Care, home-based early childhood care and education facilities can serve up to 16 children; however, both Benton County and Coos Bay consider any facility with more than 13 children a child care center.

Using different or outdated definitions is an issue because licensing and building requirements for centers are much more stringent than the requirements for family child care homes. More restrictive definitions also disincentivize registered family child care providers from expanding their business to certified family homes, as they would have to invest time and money to meet new requirements to only enroll a few more children, rather than up to 16 as allowed by state licensing.

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**49%** of home-based and  
**36%** of center-based survey  
respondents said  
**permitting requirements  
and procedures were  
confusing or unclear.**

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Although compliance with ORS 329A.440 is required by state law, it is unclear whether jurisdictions are required to align their definitions of early childhood care and education facilities with state licensing definitions. However, misalignment between definitions, state land use rules, and Department of Early Learning and Care requirements can complicate and limit child care facility development and expansion. On occasion, jurisdictions use terms in their permitted use table that are either undefined or not specific enough to clearly identify the

type of facility that is permitted. In some cases, it appears this misalignment might also artificially constrain capacity for in-home facilities.



## LOCAL JURISDICTION SURVEY RESULTS

- ◆ **Definitions:** Some of the jurisdictions surveyed indicated that their code definitions are outdated, allowing only up to 12 children for in-home child care. Some also noted they require conditional use processes for a variety of thresholds (e.g., 6-15 children) that do not align with the Department of Early Learning and Care's definitions and thresholds for registered and certified family child care.

This misalignment can create confusion for providers attempting to conduct their own preliminary research and complicate matters for staff trying to determine if a specific use is allowed on a particular property. While these issues can sometimes be resolved with a phone call or email to city and county staff, many jurisdictions in Oregon lack staff capacity to handle miscellaneous queries from providers with questions about facility development. It may also be that local staff are unaware of conflicts with state law as well as the differences in statutory obligations of zoning and building departments.

### Permitted Uses by Right

Generally, zoning will either allow a use outright with no additional restrictions, prohibit the use entirely, or subject the use to special requirements or procedures, such as design review or a conditional use permit. When a use is allowed "**by right**", typically it is allowed without the need for any special procedures or discretionary land use approvals from local planning authorities. If the land use is not allowed by right, providers may need to seek variances, special permits, or undergo a discretionary review process to obtain approval from local authorities, often adding substantial time and cost to the development process.

The intent of HB 3109 (ORS 329A.440) was to allow in-home child care by right in residential zones and centers by right in commercial and industrial zones to eliminate lengthy conditional use or other special land use processes. However, many jurisdictions have yet to revise their codes to reflect updated laws, creating confusion when trying to understand the process a child care facility may need to navigate and the level of scrutiny the project may face.

It is important to note that other permits from building, public works and onsite departments and others may still be required following confirmation of zoning use being permitted outright. This is discussed further below.



## LOCAL JURISDICTION SURVEY RESULTS

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Even though state statute requires registered and certified family child care to be considered a residential use and to be allowed by right in all residential zones, many jurisdictions still require condition use permits for in-home child care.

- ◆ **Permitted Use:** Only 56 percent of jurisdictions surveyed noted that a new certified family child care home is a permitted use in a residential zone. Several jurisdictions noted this would be considered a conditional use.

## LOCAL CODE REVIEW

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### Family Child Care Homes

All five jurisdictions represented on the work group allow family child care homes by right in all residential and commercial zones; Coos Bay and Benton County limit the number of enrollees to 12.

### Child Care Centers

In residential zones:

- ◆ All five jurisdictions allow child care centers in residential zones as a conditional use in all or most zones or with limitations.

In commercial zones:

- ◆ Three jurisdictions, Clatsop County, Bend, and Portland, allow child care centers by right in all commercial zones.
- ◆ Two jurisdictions, Coos Bay and Benton County allow child care centers (either by right or conditionally) in some commercial zones, but not all.

In industrial zones:

- ◆ Clatsop County allows child care centers by right in all industrial zones.
- ◆ Bend and Portland allow child care centers (either by right or conditionally) in all industrial zones not designated as heavy industrial.
- ◆ Coos Bay and Benton allow child care centers in some industrial zones, but not all.



# Special Procedures and Permit Timelines

If a use is not allowed by right or prohibited entirely, it may be allowed through a special procedure. Special procedures are discretionary processes and often come with subjective approval criteria, longer review times, and additional application requirements and fees.<sup>6</sup>

## Special Procedures

While ORS 329A.440 limits the ability of local governments to place additional zoning restrictions on early childhood care and education facilities in certain zones, jurisdictions still maintain some ability to subject early childhood care and education facilities to special procedures or restrictions if they regulate other uses in the zone in the same way. The types of required permits, permitting procedures, and their associated requirements vary greatly between jurisdictions.

**Conditional use permits**<sup>7</sup> are a land use requirement commonly placed on early childhood care and education facilities and are the most significant land use barrier for new early childhood care and education facilities. Obtaining conditional use permits usually involves a longer and more intense land use review process, and can include additional fees, neighborhood meetings, public hearings, and approval or denial by relevant authorities. While jurisdictions outline the criteria for how they will evaluate a conditional use application, approvals are ultimately at the discretion of the jurisdiction.

.....  
**37%** of home-based and  
**40%** of center-based survey  
respondents said that  
**conditional use permits**  
made it difficult or  
impossible to locate or  
expand their business.  
.....

Even if a conditional use application is approved, the applicant may still face challenges with meeting all conditions specified in the permit. These conditions could involve various aspects of the development process and may be regulated by different departments, such as building or public works. Conditions may include:

- ◆ Specific site design standards
- ◆ Operating limitations
- ◆ Additional systems development charges
- ◆ Environmental protection measures
- ◆ Public infrastructure and utility improvements
- ◆ Street and sidewalk improvements or accessibility upgrades

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<sup>6</sup> Throughout this report, the term "special procedures" is used to refer to additional regulatory or design requirements that child care facilities must navigate beyond the standard processes for developing a new facility, including but not limited to the conditional use process.

<sup>7</sup> Although not independently addressed in the report, Non-Conforming Use verification/alteration land use permitting requirements are another example of special procedures and are similar to the conditional use process. They commonly present similar barriers as those discussed in this section.



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“The county planning department was unaware that home daycares existed within the county, or that the ORS define **home daycares as a residential use**. As I built my home intending to open a CF facility, the county **required me to meet commercial building and sanitation codes**. I acquired a HO and CU permit...”

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Conditional use permit packages require substantial effort to prepare, as the applicant may be required to prepare more detailed site development plans. They can also have lengthy review timelines relative to other permits, with no guarantee the permit will be approved and issued. Conditional use procedures can be complicated and obscure, disadvantaging small businesses and early childhood care and education providers who may be less familiar with land use processes, especially those who may not be fluent in English.

## CHILD CARE IN CHURCHES

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Providers shared that churches are often set up well for child care — many have existing child care programs offered during church services and have sufficient indoor and outdoor space. However, churches are frequently permitted as conditional uses on their own, so if a provider would like to co-locate inside the church or on the same property, they might be required to apply for a modification of a conditional use to add child care as a permitted use on the site.

Each jurisdiction is likely to approach regulating child care in existing churches (or other institutions) differently though. For example, Portland does allow child care by right in a residential zone even when incorporated into a church. If the church already has indoor and outdoor space that can accommodate child care, they are able to move in from a zoning perspective. However, major exterior changes to the church could trigger a conditional use.

## Permit Timelines

A variety of factors influence the timeline for developing a child care facility such as the type of facility (in-home or a center), the complexity of the site and/or building, project scope and size, and whether the project is allowed by right. During the development process, early childhood care and education facilities are required to undergo routine levels of permitting, such as site plan review and building permits, and occasionally special review processes like a conditional use. Land use processes are typically the longest of the regulatory review processes, so states often establish maximum timelines for jurisdictions to reach land use decisions. Pursuant to ORS 215.42, counties are generally limited to 150 days and cities are limited to 120 days, beginning once the land use permit application is deemed complete and ready for formal review. These timelines also include exhausting local appeal options.



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**46%** of home-based and **47%** of center-based survey respondents said **long permit timelines** made it difficult or impossible to locate or expand their business.

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However, these timelines do not always reflect the reality of the overall time it takes to receive a land use permit once an application has been submitted.

Permit review timelines often do not account for the time the land use clock stops and restarts during the completeness review. Jurisdictions statutorily have thirty days to review a land use application to ensure it is complete and ready to begin the actual land use review. The thirty days for completeness review is not included in the 120- or 150-day limit jurisdictions are subject to. If the application is not

complete upon initial review, the thirty day “clock” stops while the applicant makes revisions and starts again with another thirty days for a second completeness review.

A few aspects of the land use process can increase a project’s timeline, including:

- ◆ **Neighborhood meetings:** Jurisdictions may require developers notify and hold a pre-application neighborhood meeting to gather feedback from potential nearby residents.
- ◆ **Public hearings:** Jurisdictions may require a public hearing regarding the land use application in front of a designated body (such as a hearings officer or planning commission).
- ◆ **Appeal periods:** The timeline to receive a permit for a project can be significantly extended if the decision is appealed, as the appeal process often involves additional hearings, reviews, and potential court proceedings.
- ◆ **Lack of staff capacity:** A shortage of staff at a local jurisdiction can often lead to delays in application reviews.

Many of these factors are intended to occur within the 120- or 150-day timeline for cities and counties respectively. However, the applicant has the right to extend the timeline to safeguard against a jurisdiction issuing a decision with incomplete information, missing studies, or less robust staff reports. An incomplete application can result in a denial, or a poorly written staff report could succumb to litigation if there are community concerns about the project. Therefore, applicants typically opt to extend review timelines when staff suggest doing so. Many providers are also first-time permit applicants and lack experience navigating the process which requires time to learn what’s needed and obtain the necessary information. This can result in delays during permit review.

While Oregon has set review times for issuing land use decisions, there is no guarantee that these limits are maintained. Long review times can cause financial strain for providers through increased holding costs during the time it takes to receive permit approvals prior to opening. Holding costs might include mortgage or rent payments, property taxes, and insurance premiums. Delayed projects might also impact a provider’s ability to retain staff who were hired in anticipation of opening.



## LOCAL CODE REVIEW

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All five jurisdictions represented in the work group require conditional use permits for child care facilities in at least one zone:

- ◆ In **Coos Bay**, conditional uses require either a Type II or Type III procedure, depending on the project's scale.
  - Type II procedures require public notice and that a decision is made within 120 days of application. Appeals must be filed within 15 days of the decision.
  - Type III procedures require public notice and a public hearing, resulting in a decision that can take a minimum of 34 days and a maximum of 120 days. The appeal process is the same as for a Type II decision.
- ◆ In **Benton County**, conditional uses require public notice and approval by the planning official. Additional information is needed to understand how long this process can take.
- ◆ In **Clatsop County**, conditional use permits are either a Type II or Type IIa procedure, determined by the community development director.
  - Type II procedures do not have additional requirements and notice of decision is typically given within 45 days. Appeals must be filed within 12 days of the decision.
  - Type IIa procedures follow the same process as Type II procedures but also require public notice and a public hearing, resulting in a longer timeline.
- ◆ In **Bend**, conditional use permits are a Type II procedure requiring public notice. The notice of decision is given within 120 days, and applicants have 12 days to file an appeal.
- ◆ In **Portland**, conditional use permits are either a Type II or Type III procedure. A new conditional use is Type III, although changes to an existing conditional use may be allowed through a Type II procedure.
  - Type II procedures require a 28-day process with a public notice and comment period. Appeals must be filed within 14 days of the decision.
  - Type III procedures are 68-day processes requiring public notice and a public hearing. The appeal process is the same as for a Type II decision.





## PORTLAND PERMIT TIMELINES FOR CHILD CARE FACILITIES

The City of Portland provided permit data for five child care facilities that applied for a conditional use permit between 2022-2024. The data shows that the average number of review days for these facilities was 221 days.

### Permit Application Requirements and Fees

Land use application requirements can vary significantly by jurisdiction, project scale, and procedure type. Requirements, depending on the type of land use permit, can include site plans, architectural drawings, environmental impact assessments, traffic studies, and Land Use Compatibility Statements.<sup>8</sup> Permitting fees are often assessed at various points in the development process, depending on various aspects of the project. Fees associated with land use and zoning could include:

49% of home-based and 42% of center-based survey respondents said permit fees made it difficult or impossible to locate or expand their business.

- **Pre-application meeting fees:** Often charged when submitting high-level project proposals for an initial review and meeting to outline key project requirements.
- **Application fees:** Often charged when submitting for a land use review (e.g., site plan review or conditional use)
- **Review fees:** Some jurisdictions may charge for the time it takes staff to review submitted plans, other may just charge the application fee.
- **Inspection fees:** Charged for various inspections throughout the construction process to ensure compliance with items related to land use and zoning such as setbacks, landscaping, parking, etc.

Throughout permitting, providers will may also need to pay for any special studies or assessments and costs of any public hearings. In general, the more complicated or lengthy a land use process is, the greater the cost to the provider.

### Urban and Rural Development

Development in Oregon is subject to a complex set of rules and regulations that vary depending on whether the facility is located in, or outside of, an urban growth boundary (UGB) and its specific zoning designation. This has caused some complexity for local jurisdictions implementing ORS 329A.440.

<sup>8</sup> Land Use Compatibility Statements (LUCS) are proposals that assess how well a proposed land use will align with existing land uses and zoning regulations in a specific area. These statements consider factors such as adjacent properties, environmental impact, required infrastructure, and community input.



Oregon is a managed growth state. UGBs are used to separate urban areas from rural areas. Each city is surrounded by a UGB which delineates where the city can expand over time based primarily on housing and employment demand. Inside the urban growth boundary, growth can occur through building housing, industrial facilities, commercial areas or public infrastructure. Outside the boundary, restrictions protect farmlands and forests, and development is limited.

Urban zoning designations in Oregon are more diverse and specific than rural zoning designations. In urban areas, zones may include residential, commercial, industrial, mixed-use, or public use. Each zone has its own set of permitted uses, development standards, and design requirements. Rural zoning designations, on the other hand, are generally broader and more focused on preserving resource lands. Common rural zones include exclusive farm use (EFU), forest use, and rural residential. These zones have fewer permitted uses and more restrictive development standards than urban zones. Below is a brief and general summary of zoning and process requirements for child care facilities in and outside the UGB and how that varies by urban and rural designations. Local codes may provide exceptions and some processes will vary by jurisdiction.

Under state law, the following differences exist between urban and rural areas:

- ◆ **Urban residential zones, inside the UGB:** Family daycares are allowed by right without land use review or home occupation permit from the planning department. Centers are often allowed as a conditional use, but some may allow centers by right in multifamily zones, particularly in conjunction with another permitted use. Traffic studies are usually required for conditional use permits.
- ◆ **Urban commercial/mixed use zones, inside UGB:** Child care centers are allowed, usually with site plan review, and sometimes through conditional use review. System Development Charges (paid with building permit fees) may be required and can be costly. With the site plan review, there is potential for public improvement requirements, such as sidewalks and curbs. Traffic studies are often required.
- ◆ **Rural residential zones, outside UGB:** Family child care allowed outright without land use review or home occupation permit. Centers are allowed usually through a conditional use permit as part of a school or religious institution. Traffic studies are typically required for conditional use permits.
- ◆ **Rural commercial zones, outside UGB:** Child care centers are allowed, typically with a site plan review, and sometimes through conditional use review.
- ◆ **Farm/Forest zones, outside UGB:** Family child care homes may be allowed by a home occupation permit, which might be a Type I or Type II review depending on the scale, the county and building type. Child care centers are typically not permitted on their own in these areas, but there may be instances where they are permitted as an accessory to a residential use via a home occupation permit.

Properties outside the Urban Growth Boundary (UGB) face significant challenges when establishing in-home child care businesses. Existing homeowners in these areas can



encounter burdensome requirements, including the need for conditional use permits and compliance with home occupation regulations. This becomes even more complex for homes located in non-residential zones, such as farm and forest zones. Attempting to rezone a property located outside of the UGB is much more complicated than rezoning a property within the UGB. Rezoning property outside the UGB required an exception process that would make amendments to the county's comprehensive plan. This is not likely an option for most child care providers, so they will likely need to proceed with the process with their current zoning designation.

The location of a child care facility within or outside of a UGB and its zoning designation can have significant implications for its development.

- ◆ **Permitted Use:** In rural areas, child care facilities may not be permitted at all in certain zones, such as farm use or forest zones or they may more often require special approvals or circumstances since development is intended to be very limited outside the UGB.
- ◆ **Development and Design Standards:** While urban zones may more broadly allow child care facilities, they typically have more detailed design and development standards, such as setbacks, lot coverage, landscaping and parking requirements. These can impact the design and layout of a child care facility and increase development costs.

## Other Land Use Barriers

During community outreach, the project team discovered other barriers that relate to zoning and land use. While they are important nuances to highlight, they do not necessarily relate to the topics covered in the above sections. These barriers include:

- ◆ **Conflict with licensing requirements:** Providers and architects reported that specific state licensing requirements can sometimes conflict with local land use regulations. For example, the Department of Early Learning and Care requires outdoor area fencing to be at least four feet tall; however, many jurisdictions limit fencing to three and a half feet in many zones. Providers may be required to seek a variance that will likely add time and cost to the process. Similar to conditional use processes, zoning variance reviews are discretionary in nature. Therefore, there is no guarantee a request will be approved.
- ◆ **Community associations:** In Oregon, homeowner associations and other planned community associations cannot prohibit the use of an owner's unit or lot as a certified or registered family child care home *unless* the unit shares a wall, floor or ceiling surface in common with another unit, potentially limiting multifamily family care homes.<sup>9</sup> Community outreach with both regulators and providers revealed that this regulation is not common knowledge and many still perceive community associations as a high-impact barrier for in-home child care in detached units.

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<sup>9</sup> [ORS 94.779](#) Unenforceability of certain irrigation requirements and restrictions on family child care, [ORS 100.023](#) Voice and unenforceable provisions of condominium governing document



## LOCAL CODE REVIEW

### Clatsop County Land Use Regulations

Clatsop County specifically prohibits planned communities or condominiums from disallowing early childhood care and education facilities in their governing documents.

Source: Clatsop County Code of Regulations [Article 3 – Structure Siting and Development Standards](#) 3.9570

## Summary of Implications

**Recent changes in state law related to the land use and zoning of child care facilities requires local jurisdictions to allow child care more broadly in residential, commercial, and industrial zones. However, inconsistent interpretation of the statute has led to varied implementation across Oregon, creating confusion about how to properly enact these requirements at the local level. ►**

Classifying in-home child care as a residential use has created significant confusion for local jurisdictions. Many are unsure how to process permit applications for child care facilities, particularly regarding requirements for home occupation permits or business licenses. This confusion is compounded by the fact that the statute contradicts state building code regulations, which do not categorize child care as a residential use. These conflicting standards have left local officials struggling to determine the proper procedures for approving and regulating in-home child care facilities.

**Gaining a preliminary understanding of the range of permits or upgrades a site will require to comply with development regulations can take significant time and money. However, providers shared that much of this upfront due diligence does not guarantee the desired result. Often, if a provider is unable to move forward with their chosen space or property, they are unable to recover their initial investment in due diligence. ►**

During community outreach, providers shared many stories of having to hire architects and consultants to help understand what a potential site might need. Providers also shared experiences of receiving conflicting information from different officials and departments and being faced with unexpected costs or procedures far into the process, even after spending significant time and money on due diligence.

“The **time** it took to get permits, **lack of clarity** around the review process, and a system that seemed **severely backed up and disjointed**. Even lucking into a child care specialist [...] there was little support.”

**Permitting procedures and requirements are often confusing, especially for providers without development experience. ►**



Providers who went through the permitting process shared that it required substantial time and research to understand and get through the permitting process, acquiring knowledge they often felt they would not be able to use again. Even if providers do establish additional facilities, because each jurisdiction has different zoning and permitting expectations, expanding into new communities may take substantial effort. Many experienced providers also shared that they would like to help other providers better understand the process but felt they couldn't because of procedural differences between jurisdictions.

**Misalignment between state and local land use regulations can create administrative challenges for both city staff processing applications and providers researching the feasibility of opening a new center or home-based care facility. ►**

**48%** of home-based and **53%** of center-based survey respondents said **zoning requirements were confusing or unclear.**

As reflected by the variety of regulations in the five jurisdictions that participate in the work group, many cities in Oregon have yet to update their permitted uses and procedures to reflect new state requirements. If cities have not updated their land use codes, either by choice or by lack of awareness of changes made to state law, and fail to administer the state regulations, the provider could appeal to the land use denial to the state Land Use Board of Appeals. However, doing so

often takes time and resources that providers may not have. Providers would also need to know state land use regulations well enough to understand the appeal options and procedures.

**Special permitting processes can introduce significant time, costs, and risk into the development process, especially for smaller or less resourced providers. ►**

Conditional use procedures also involve varying degrees of discretionary review, depending on the type of permit, making approval criteria for conditional use permits subjective. Interpretation of development standards or design criteria can become political, relating to issues like community character and need. In addition, the permit may contain expiration dates, requiring providers to reapply and go through the review process again to continue

“They **first said I needed a conditional use permit** [...] only to tell me two months later I did not need a conditional use permit! It was a huge amount of work and time.

“I tried for **several years** to get a conditional use permit to grow in the 5,000 square foot home I lived in. I **could not get the city to give me a conditional use permit** in order to expand my program. I eventually [...] rented a commercial space. I have grown and expanded since then, but I do not own my building. It has been **very expensive.**”



using the property with no guarantee that the permit will be approved. Many providers shared that they did not want to risk their resources setting up an early childhood care and education facility that they might not be able to occupy long term.

**The location of a child care facility within or outside of an urban growth boundary (UGB) and its zoning designation significantly impact its development. ►**

In rural areas, child care facilities may face more restrictions on permitted uses and require additional approval processes. In contrast, urban zones may allow child care facilities more broadly but have more stringent design and development standards. Both of these implications often increase the time and cost for providers opening or expanding their child care business.



# 3. Licensing Requirements & Building Codes

## CHAPTER 3 OVERVIEW

Child care facilities must meet the building requirements of multiple regulatory agencies. This chapter describes the following elements:

- ◆ Department of Early Learning and Care facility requirements for licensing.
- ◆ Building code requirements and process, including building permits use and change in occupancy, and fire safety.

## CHAPTER 3 KEY TAKEAWAYS

Providers universally highlighted building codes and permits for new facilities as well as required renovations as high-impact development barriers. Especially in conjunction with Department of Early Learning and Care building requirements, required building upgrades can add significant expenses, limit available space, and add layers of separate, and sometimes conflicting levels of review.

- » **Significant Costs:** Child care providers face significant financial burdens due to required upgrades in areas such as outdoor space, plumbing fixtures, fire safety systems, and hazardous material remediation. These expenses can make facility development or expansion prohibitively expensive, especially for smaller providers.
- » **Limited Suitable Spaces:** The combination of facility requirements and renovation costs severely restricts the pool of existing buildings that can be feasibly converted for child care use.
- » **Discrepancies Among Regulators:** Providers experienced conflicting requirements from different agencies leading to multiple rounds of costly upgrades and inspections. Incongruent language used among the different regulators creates confusion for where different child care facilities are allowed to operate.



The building of an early learning and care facility is generally regulated by two primary sets of requirements:

- ◆ **Facility requirements for licensing:** Child care facilities are subject to a range of building requirements, established across multiple agencies including the Department of Early Learning and Care, the Oregon Health Authority, and the Oregon Department of the State Fire Marshal. Generally, the Department of Early Learning and Care requires proof of compliance with these regulations prior to licensing to ensure that the facility meets the necessary standards for providing safe and quality care to children.<sup>10</sup> These requirements can relate to building code requirements but are not administered by the local building department.
- ◆ **State building code:** These are regulations that specify the minimum standards for the design, construction, and operation of buildings to ensure public health, safety, and general welfare. Child care facilities must comply with these codes, which may include requirements related to fire safety, occupancy, accessibility, and other aspects of the physical structure.

In Oregon, the state building code is a model code developed by the International Building Code. The state building code is adopted by the Oregon Building Division and applies statewide. While the state building code does not require local adoption, local jurisdictions can implement building requirements to address location-specific issues, so long as they meet the minimum and exceed the maximum requirements set forth in the state building code.

Building codes are typically administered by a jurisdiction's building division or building department. The Oregon Building Codes Division and the state building code affords local building officials discretionary authority when implementing the building code locally, as long as the intent and life safety equivalent of the code is still met under any adjustments. However, regulators and architects shared that building officials are often uncomfortable making adjustments because of a perceived liability risk when doing so. Others noted that there is a wide spectrum of how requirements within the building code are interpreted by local building officials. Where inconsistent interpretations of a specialty code provision are encountered locally, the Oregon Building Codes Division can provide technical interpretation guidance.

## Facility Requirements for Licensing

The Department of Early Learning and Care establishes licensing requirements for child care facilities, which include rules regarding building amenities and characteristics that child care facilities must meet as part of the licensing process.<sup>11</sup> These regulations are based on supporting and enforcing an environment for healthy and safe child development in the

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<sup>10</sup> Department of Early Learning and Care requirements are outlined in the Oregon Administrative Code, Chapter 414.

<sup>11</sup> Additional details on the Department of Early Learning and Care facility requirements can be found in the Appendix.



facility. Some other requirements, such as sanitation and fire safety, are also administered or inspected by other agencies, including the Oregon Health Authority, and the Oregon Department of the State Fire Marshal. These requirements are summarized below in Exhibit 1.

**Exhibit 1: Department of Early Learning and Care Required Inspections for Licensing**

Floor Plan Review	Fire Inspections	Sanitation Inspections	Lead Testing
<ul style="list-style-type: none"> <li>• <i>Submit building plans to DELC for approval</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Centers must pass inspection by local fire marshal.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Certified family care homes and centers must pass inspection by environmental health specialist</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Water testing by drinking water laboratory</i></li> </ul>

Source: The Department of Early Learning and Care

The Department of Early Learning and Care requires a pre-certification visit to discuss licensing requirements with prospective providers prior to scheduling inspections, but after building and zoning permits are approved. However, some providers shared that it can be difficult to know if their facility will meet Department of Early Learning and Care requirements during the development process. Providers noted a range of experience when engaging with Department of Early Learning and Care licensing agents, with some engaged through the development process and others only becoming involved once the facility is approved by the local city or county and essentially ready to open.<sup>12</sup> The later a Department of Early Learning and Care inspector gets involved, the more risk the provider might not pass the Department of Early Learning and Care inspection and must do additional renovations and delay opening.

**Child Care Facility Requirements**

Child care facilities are licensed based on their setting and capacity. Registered Family and Certified Family Child Care licenses are typically found in residential homes, while Certified Center are generally found in commercial buildings.

- ◆ A Registered Family Child Care Home operates within the licensed provider's residence, specifically in the "family living quarters" as designated by the Child Care and Licensing Division (CCLD).
- ◆ Certified Family Child Care Homes, on the other hand, are located in buildings "constructed as a single-family dwelling" and can care for up to 16 children.
- ◆ Child care centers are usually situated in commercial or non-residential settings.

<sup>12</sup> Licensing specialists often serve as unofficial guides for child care providers navigating planning, zoning, and building codes. This role falls outside their primary responsibilities, leading to inconsistent service levels across the licensing system.



Child care facility requirements for licensing can limit the number of suitable spaces for child care facilities and result in major renovation costs to meet requirements. Even if providers can afford to renovate a building to meet facility requirements, providers pointed out that finding a potential space able to meet key facility requirements, particularly sufficient outdoor space, can be very difficult. In particular, providers and architects identified outdoor space, plumbing fixture requirements, and mitigation of hazardous materials as some of the greatest barriers to development. While the Department of Early Learning and Care can issue waivers or alternatives for some requirements (such as outdoor space or sanitation), these facility requirements may still create barriers for providers based on their specific situation or licensor.

## OUTDOOR SPACE

The Department of Early Learning and Care requires child care centers and Certified Family Care Homes to provide at least 75 square feet of outdoor space per child, as well as access to shade, and fencing at least four feet high. While providers can submit an alternative proposal to the Department of Early Learning and Care to use nearby park or school outdoor space for activities, providers shared that these spaces may not meet Department of Early

Learning and Care licensing standards for access or safety. For centers, providers emphasize that it can be very difficult to find a potential center location with enough area to be used as or converted to an outdoor play space, particularly in urban areas. Architects also pointed out that even if providers had the funds to convert a building's parking lot into a play area, the building might then be out of compliance with the jurisdiction's parking requirements. For certified family care homes, outdoor space requirements can be especially limiting for providers in apartments or other homes without a dedicated yard.

Many providers shared that **open space requirements** are one of the most, if not the most, restrictive barrier to development.

## PLUMBING FIXTURES

**42%** of home-based and **55%** of center-based survey respondents said **plumbing requirements** are a barrier.

According to the facility regulations for certified family child care, providers must have two toilets if there are more than 15 children or 12 toddlers in care.<sup>13</sup> For certified centers, providers must provide one toilet per 15 children over the age of three, and one toilet (either child-sized or with a training seat) per 10 children aged 24 to 35 months.<sup>14</sup> For every two toilets, providers must provide a handwashing

sink. If facilities expand, providers will have to add additional toilets and sinks to meet the child to toilet ratio requirements. Architects reported that installing additional fixtures can require major plumbing renovations, and providers shared that there are limited buildings

<sup>13</sup> Oregon Administrative Rule 414-350-0140

<sup>14</sup> Oregon Administrative Rule 414-305-0800



(both residential and commercial) that are already equipped with sufficient plumbing fixtures. In addition, many facilities may not have enough space to add additional restrooms while also maintaining space requirements for classrooms.

## HAZARDOUS MATERIALS

Providers shared that the costly removal of hazardous materials in existing buildings such as mold, asbestos, dry rot, pest removal, and lead remediation are expensive though necessary. While providers can invest in costly studies to test for hazardous materials before committing to a building, especially in older structures, these assessments do not guarantee that all hazardous substances will be identified during the initial inspection. The risk of uncovering additional hazardous materials during renovations or after occupying the space is a significant concern.

## Building Code Requirements and Process

Separate from the Department of Early Learning and Care’s licensing building requirements, providers may need to work with the local jurisdiction to confirm an existing building’s legal occupancy, apply for and receive permits for renovations, undergo inspections, and obtain a final Certificate of Occupancy to use the building for the new proposed use.

### Building Permits

From a building code standpoint, at a minimum, opening any new child care facility (including in an existing home) typically requires a change of occupancy and applicants will likely need to file a change of use with their local building department to ensure the space meets safety and structural requirements for its new purpose as a child care facility (discussed in more detail below). Depending on the scale of the project, they may need to obtain land use permits (previously discussed) along with other building related permits such as electrical and plumbing permits.

While the process for obtaining building permits varies by jurisdiction, in general the provider will need to complete:

- ◆ **Building plans:** The provider will first need to hire an architect and/or an engineer, where required by law, to draw up building plans in compliance with building codes and zoning regulations.
- ◆ **Plan review:** The provider then submits the project plans to the local building department, along with permit fees, permit application forms, and any other required materials.
- ◆ **Inspections:** During construction, the provider will need to schedule and pass building inspections throughout various phases of the process to verify

.....  
**37%** of home-based and  
**61%** of center-based  
survey respondents  
reported that they needed  
to get a **building permit**  
as part of the  
development process.  
.....



that the project meets all applicable codes and standards and is constructed in accordance with the approved plans.

- ◆ **Certificate of Occupancy:** Once the project passes final inspections the building department will issue a Certificate of Occupancy, allowing the building to be used for the new use and occupancy. Even if the facility receives a Certificate of Occupancy, this does *not* mean that the facility meets the Department of Early Learning and Care requirements for licensing outlined above.

## LOCAL JURISDICTION SURVEY RESULTS

In practice, building permit requirements for child care vary significantly across Oregon’s jurisdictions. The survey of local jurisdictions revealed:

- ◆ **Change of Use:** Only 41 percent considered a new certified family child care in an existing home (without fire sprinklers) as a change in use.
- ◆ **Building Permit:** 44 percent would require a building permit and inspection to confirm compliance with Oregon Structural Specialty Code Section 420.12.
- ◆ **Inspection Only:** 25 percent stated they would only require a building inspection to confirm compliance with Oregon Structural Specialty Code Section 420.12, without necessitating a building permit.

## Building Occupancy and Change in Use

All uses and corresponding spaces within a building, formally designated as its occupancy classifications, dictate the applicable building code standards and requirements that must be met. Per the 2022 Oregon Structural Specialty Code, there are ten different occupancy groups. Early childhood care and education facilities are classified under three occupancy groups.<sup>15</sup>

- ◆ **Residential Group R-3** buildings include home-based registered or certified family child care facilities located within a one- or two-unit dwelling.
- ◆ **Education Group E, day care facilities** include buildings occupied by more than five children older than 2<sup>1</sup>/<sub>2</sub> years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.
- ◆ **Institutional Group I-4, day care facilities** include buildings occupied by more than five persons of any age who receive custodial care in a place other than their primary homes for fewer than 24 hours per day.

<sup>15</sup> 2022 Oregon Structural Specialty Code, [Chapter 3 Occupancy Classification and Use](#)



## GROUP R-3 REGULATIONS

The International Building Code does *not* allow home-based child care with more than five children enrolled to be classified as Group R-3; all child care is classified under either Group E or Group I-4. In April 2021, the Oregon Building Code Division updated its code to align with the national standard for in-home care facilities, requiring Group R-3 facilities to meet the construction standards of the Oregon Structural Specialty Code, which requires residential dwelling sprinkler systems for fire safety.

In January 2022, following stakeholder engagement during the public process, the Division in conjunction with the appropriate advisory board amended its rule regarding Group R-3 child care facilities. This amendment allows in-home child care facilities (in a one- or two-unit dwelling) to be constructed in accordance with the Oregon Residential Specialty Code standards, provided they meet the fire safety requirements outlined in Oregon Structural Specialty Code (OSSC) Section 420.12, which offers an alternative to the installation of residential dwelling fire sprinklers. They will also need to meet applicable accessibility requirements in OSSC Chapter 11 for the function served in accordance with the Federal America Disabilities Act.

While ORS 329A.440 mandated that family child care homes be treated as a residential use under land use regulations, in home child care is still subject to some of the building code requirements of commercial uses.

## CERTIFIED FAMILY CARE HOMES IN MULTIFAMILY BUILDINGS

According to the Department of Early Learning and Care, a registered family child care facility can be located in the provider's "family living quarters" and a certified family child care home can be located in a building "*constructed as a single family dwelling*". This essentially means that registered family child care can be located in any type of living quarters, whether for a single-family home, a duplex, or an apartment.

However, it becomes more complicated for certified family child care. The Oregon Structural Specialty Code does not use or define the term "single-family dwelling." Instead, when interpreting the Department of Early Learning and Care's requirements for a building constructed as a single-family dwelling, the OSSC looks at structures that can be built under single-family dwelling standards using the Oregon Residential Structural Code. This interpretation includes one- or two-unit dwellings such as detached single-family homes, duplexes, and townhomes. These structures are grouped together because they all adhere to the same construction standards set forth in the Oregon Residential Specialty Code. Other building types (with the exception of townhomes, any building with greater than two units) are classified as group Residential-2 buildings under the Oregon Structural Specialty Code. These buildings are often already constructed with sprinklers, depending on the age of the building and the number of units. However, if a provider would like to provide care in one of these units without sprinklers, they would need to install them. While the local building official could technically choose to grant an alternate fire safety method (within the state-



determined minimum and maximum), this is highly dependent on the situation and local building official practices.

## CHANGE IN OCCUPANCY FOR CERTIFIED CENTERS

Child care centers are typically established in commercial buildings, which can have a wide variety of previous uses. Due to this broad range of potential commercial uses, opening a new child care center often requires a change of occupancy. This change is necessary to ensure the building meets the specific safety and structural requirements for child care facilities, which may differ significantly from its previous commercial use. If a certified center would like to occupy a building not currently classified as Group E or I-4, it will need to obtain a change of occupancy for all or part of the building.

29% of home-based and 49% of center-based survey respondents reported needing a change of use for their building.

To meet the requirements for a change of occupancy, the provider must submit building plans stamped by a licensed professional architect or engineer to the local building department demonstrating compliance with the current life safety requirements of the Oregon Structural Specialty Code for that occupancy group.<sup>16</sup> Throughout construction, inspections are made in accordance with the approved construction documents. Once construction is approved, the building department will do a final inspection and issue a new Certificate of Occupancy if approved.<sup>17</sup><sup>18</sup> Major requirements for a change in occupancy to groups E or I-4 include:

- ◆ **Sprinklers:** Adding a sprinkler system for group E areas greater than 12,000 square feet and all group I areas, unless every room where care is provided is on a level with an exit at ground level.
- ◆ **Seismic:** Changes in a building's use could result in being assigned to a higher risk category, and the building may be required to satisfy the seismic requirements for the new risk category.<sup>19</sup> Buildings containing either Group E or I-4 occupancies are in risk category two of four if they have fewer than 250 *total* occupants or would be assigned risk category three if they exceed 250 *total* occupants.<sup>20</sup> So, if a child care facility would like to move into a risk category two building with more than 250 occupants, the entire building would become a risk category three building and need to undergo seismic upgrades. Seismic upgrades can be cost prohibitive for many early childhood care and education facilities and often restrict the number of potential spaces a provider could occupy.

<sup>16</sup> Professionals must be licensed in accordance with the architectural and engineering professional licensure laws.

<sup>17</sup> Oregon Structural Specialty Code, [Section 3410 Change of Occupancy](#)

<sup>18</sup> Regional Solutions & Early Learning Division Child care Workgroup Executive Summary (January 2020)

<sup>19</sup> Oregon Structural Specialty Code, [Section 3410.6.3 Change of Occupancy](#)

<sup>20</sup> Oregon Structural Specialty Code, Table 1604.5



- ◆ **Accessibility:** In addition to life safety requirements, Group E, Group I, and Group R-3 buildings uses for child care may be subject to accessibility upgrades. If the provider makes alterations to an area of primary function in the building, they will also need to allocate 25% of the construction costs for the alteration of the building’s primary function area to make accessibility improvements, including upgrades to parking, entrance and building routes, hardware and controls, restrooms and common use areas in accordance with Oregon Revised Statutes.<sup>21</sup>

Providers reported that building upgrades triggered by a change of occupancy can cost hundreds of thousands of dollars in fees, materials, and architect and contractor costs. According to providers, the highest upgrade costs typically come from seismic upgrades and fire safety requirements, such as outfitting the building with sprinklers or additional exits. Providers also shared that it can be very difficult to find available spaces that already have an E or I-4 occupancy and that are zoned for child care.

## LOCAL JURISDICTION SURVEY RESULTS

For child care center in existing commercial building space:

- ◆ **Seismic Upgrades:** 12 percent of jurisdictions surveyed indicated they would require seismic upgrades and might be required for an additional 23 percent of jurisdictions, depending on the scope of renovations being done.

Historical use and occupancy classifications can be very difficult to find documentation for, so providers may not be able to easily identify whether the building will require a change of occupancy or show proof of the current occupancy classification, even if the building has previously been used for child care. Providers shared stories of having to drive several hours to look at records in person, submitting public records requests, and needing to hire architects to have new building plans drawn up.

## Fire Safety

Fire and life safety requirements for child care facilities are regulated by both the Oregon Structural Specialty Code and Oregon Fire Code. Building codes set the foundational fire and life safety requirements, particularly those related to interior spaces of buildings, which are then maintained through the Oregon Fire Code. Building officials enforce the building code, issue building permits, and direct change of use processes. During the building permit review process, these integrated fire safety requirements are verified to ensure compliance. While building departments maintain primary jurisdiction during construction, they are required to coordinate with fire officials throughout the permitting process. This coordination may involve sharing pre-application notes and conducting joint plan reviews, although some jurisdictions may charge an additional fee to include fire officials in pre-application meetings. Once construction is complete and a Certificate of Occupancy is issued, jurisdiction typically shifts

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<sup>21</sup> 2022 Oregon Structural Specialty Code, [Section 3403.6.5 Accessibility for Existing Buildings](#)



to the fire official. At this point, the Oregon Fire Code (or locally adopted fire code if one has been approved by the Department of State Fire Marshal and is not less stringent than the Oregon Fire Code) takes precedence and functions as the maintenance code. The maintenance code confirms that the ongoing operational fire and life safety requirements approved by the building official through the building code are being maintained. Prior to licensing, certified family care homes and centers must demonstrate their facility meets the Oregon Fire Code requirements.

## FIRE AND LIFE SAFETY REQUIREMENTS

Fire and life safety requirements for child care facilities vary depending on the type of daycare and the building they occupy as required in the building code. These requirements consider factors such as the age and number of children served, the layout and size of the facility, and whether the daycare operates in a dedicated building or a shared space. Requirements include:

- ◆ Certified centers generally must install sprinklers unless either a) all rooms are on the ground floor *and* have an exterior exit door or b) are under 12,000 square feet *and* do not enroll children under 2.5 years of age. If the center serves infants and toddlers, it must include exterior ramp exits for evacuation of cribs.
- ◆ Child care homes must either install an automatic residential dwelling sprinkler system *or* provide proof that the facility has met other safety measures, including care being located at the level of a ground-level exit at grade.<sup>22</sup>

While acknowledging their necessity, providers and architects reported that fire safety requirements are often the most complex, difficult, and expensive to meet. In particular, providers identified sprinklers as a major expense that is often cost prohibitive. While centers do not need to install sprinklers if all rooms are on the ground floor and have exits, most buildings do not have exits from every room and would still require renovations to meet code.

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**49%** of home-based and  
**61%** of center-based  
survey respondents  
reported **fire safety  
requirements** as a barrier.

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<sup>22</sup> 2022 Oregon Structural Specialty Code, [Section 420.12](#)



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“My issue with my split level home was usable fire exits from the second floor deck and the inability of my state licenser, local fire and city officials to help me find the correct answers to my questions and acceptable corrections to the issues.”

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Fire and life safety requirements are also more stringent if providing child care in a multi-story structure. Per the OSSC 420.12.2, the building code would require sprinklers in all areas where child care is provided if all the rooms where care is provided are not located on a floor with an exit leading directly outside at grade. Therefore, if a provider wanted or needed to utilize space in the second story of their home for child care, they would generally need to install fire sprinklers. However, the Department of Early Learning and Care generally does not allow care on upper stories.

## Other Related Barriers

Providers noted and additional research uncovered other challenges that extend beyond the straightforward application of building codes or child care facility requirements. These additional barriers frequently surface during the building permit process.

### Septic Systems

Homes and facilities relying on septic systems to meet wastewater needs are subject to compliance with OAR 340-071-0205, requiring the provider to seek approval of an Authorization Notice, from their county onsite wastewater program, acknowledging any change in occupancy and confirming sufficient capacity of the system. This administrative rule evaluates wastewater needs of early learning and care facilities comparable to that of a school. Many homes, particularly older homes, do not have existing septic capacity to meet these requirements, resulting in the need to replace or expand the septic system and drain field. This can be a very costly improvement and often is not discovered until the final stages of permitting.

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“Home purchase to expand my in-home childcare business from RF to CF, the county wanted to make my well a public water supply claiming my daycare was a school.”

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### Environmental Protection Requirements

Depending on the location and nature of the proposed facility, early childhood providers may need to comply with environmental regulations related to issues such as stormwater management, mitigation for hazardous materials (such as lead and asbestos), and wildlife protection.



## System Development Charges

System development charges are fees imposed by jurisdictions to cover the potential infrastructure and service costs created by the new development. Some common types of SDCs are for water, sewer, stormwater management, transportation, parks and recreation, schools, and public safety SDCs. These charges are typically due prior to building permit issuance (though timing varies by jurisdiction) and can total up to tens of thousands of dollars and can be difficult to predict at the beginning of a development project.

“A week before moving in I was told I had to pay \$78,000 [in system development charges] before I could move in... that wasn't going to work.”

### LOCAL JURISDICTION SURVEY RESULTS

For child care center in existing commercial building space:

- ◆ **System Development Charges:** 30% of jurisdictions would charge a transportation SDC because trip estimates from a child care use are higher than trips from a retail or business use.

## Frontage Improvement Requirements

In addition to system development charges, many jurisdictions require projects to make upgrades to public infrastructure, including the street frontage. These typically apply to centers, but there may be instances where they impact in-home facilities too. These requirements can add significant costs to the project. For early childhood care and education providers, especially those with fewer resources, these costs can make projects infeasible.

### LOCAL JURISDICTION SURVEY RESULTS

For child care center in existing commercial building space:

- ◆ **Frontage Improvements:** 38 percent of jurisdictions surveyed indicated they would review the street frontage and may require improvements to sidewalks, curbs, street trees, or other right-of-way improvements.



## 📍 LOCAL CODE REVIEW

### Portland Frontage Improvements

In Portland, each time there is a change in occupancy of a building, the Portland Bureau of Transportation (PBOT) assesses whether or not the development will cause an increase in traffic. Projects that increase the number of trips generated by a site are required to provide “frontage improvements”, which can include upgrading loading zones, driveways, parking, sidewalks, accessibility requirements (such as ADA compliant curb ramps), light poles, and trees. While not specific to early childhood care and education facilities, providers reported these improvements can cost hundreds of thousands of dollars and were often the largest expense faced by providers. These improvements can also be triggered by total construction costs; however, providers told us that it can be unclear what construction costs count towards this threshold or if improvements may be required during the project.

Source: Portland Policy Documents [TRN-1.30 – Thresholds for Frontage Improvements and Dedication Requirements](#)

### Discrepancies Among Regulatory Agencies

Many providers shared experiences of disconnects between the different agencies involved in the development of their child care facility. For example, one provider shared that while the fire marshal noted they would approve their facility without sprinklers, the building department required them. Providers reported general difficulty in identifying and understanding fire safety requirements, which has, in some cases, led to multiple rounds of upgrades and inspections, increasing project costs and causing construction delays.

**49%** of home-based and **44%** of center-based survey respondents said that **confusing and unclear building code requirements** were a barrier to development.

Some providers and architects also highlighted discrepancies between licensing and building codes. In particular, architects referenced plumbing fixture requirements: per the building code, toilets (with the exception of urinals) must be fully enclosed with separate facilities per person.<sup>23</sup> However, licensing regulations do not allow children to be out of sight of the teachers, resulting in providers taking large groups of children to the bathroom at a time.<sup>24</sup>

Architects report that best practices for these facilities, especially for younger children, favor more open toilet rooms. However, they have faced difficulties obtaining waivers or modifications from the local building department to implement these designs.

<sup>23</sup> 2022 Oregon Structural Specialty Code, [Section 1210.3 Privacy](#)

<sup>24</sup> Oregon Administrative Rules, 414-305-0400 Staff-to-Child Ratio and Group Size,



## Summary of Implications

**The Department of Early Learning and Care’s facility requirements for licensing can result in high-cost renovations and limit the number of potential spaces for child care. ►**

Outdoor space requirements per child are particularly difficult to achieve for child care centers in urban settings and for home-based providers with limited yard space. Additionally, meeting child-to-fixture ratios for plumbing often necessitates extensive and expensive renovations. The potential need for hazardous material remediation in older buildings can pose substantial financial risks for providers due to the high costs associated with removing asbestos, lead, mold, and other hazardous substances.

**Building upgrades required to comply with the building code can be expensive and unpredictable. ►**

Providers emphasized the challenge of accurately predicting total project costs. Beyond the substantial upfront capital required for securing a site and building renovations to meet licensing requirements, providers face other costs and potential delays related to necessary upgrades, inspections, and occupancy paperwork to comply with the building code. These setbacks can significantly postpone the facility's opening date, putting the provider at risk of lost revenue, difficulty meeting loan repayment obligations, and jeopardizing grant funding. For example, a bank may require proof of project readiness, such as building permits or occupancy certificates. Requirements will vary depending on the bank and the type of loan.

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**53%** of home-based and **57%** of center-based survey respondents said the **costs of building updates** made it difficult or impossible to locate or expand their business. **37%** of center-based survey respondents estimated that it would cost them **\$100,000** to meet building codes.

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**Costs from change of occupancy requirements effectively require providers to move into buildings already classified as Group E or Group I-4; however, providers shared that there are very few buildings already classified as Group E or Group I-4. ►**



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“Child care requires the **highest level of retrofitting, highest level of sprinklers, and other costly changes** like multiple exits and increasing bathrooms (plumbing is expensive). And **MOST places for sale require an occupancy change**, which requires money to do research on the viability of the building, to find out, frequently, that it won't work. This alone is a huge cost and barrier.”

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a challenging and expensive endeavor in itself.

**There is a general lack of clarity and common understanding of where child care facilities are allowed to operate and under which set of regulations. ►**

Incongruent language between land use regulations, the building code and licensing requirements may be artificially limiting the potential to provide child care in a multifamily dwelling unit. Some jurisdictions have found a path forward through live-work unit provisions in the building code, but regulators acknowledge the complications and note that possible code changes would likely be necessary to more broadly allow child care in multifamily units.

**Providers report frustration with disconnects between licensing, building code, and fire safety requirements, leading to multiple rounds of costly upgrades and inspections. ►**

Providers reported challenges navigating the regulatory landscape for child care facilities, including disconnects between the different agencies involved. Varying interpretations and requirements among agencies increase the risk of failing various inspections leading to additional costs and delays in opening.

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“The **most difficult part is understanding the codes** and complying with the intent of the codes. Each official potentially interprets the code differently therefore if you speak to multiple officials, you could potentially get **multiple interpretations which becomes confusing and costly.**”

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Providers consistently pointed to changes of occupancy as a limiting factor for development. However, because of the limited number of spaces that would not require a change, many providers are either faced with significant expenses or are not able to open at all.

Modifying a building's designated use often involves a complex and costly process, including hiring consultants, multiple rounds of plan review, making substantial building upgrades, and completing inspections prior to even obtaining their child care license. Moreover, providers expressed that simply determining whether a building requires a change of use can be



# 4. Regulatory Framework in Action

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This section provides both hypothetical scenarios and actual case studies to demonstrate the real-world impact of regulations on child care providers. From zoning and licensing issues among other challenges, these scenarios reveal the complexities of regulatory compliance for child care providers.

## How Providers Could Be Impacted

This section will explore three hypothetical scenarios in which providers might encounter regulatory barriers to starting or expanding a child care business based on the type of license and facility, including:

- ◆ Opening a new child care center or family care home.
- ◆ Expanding from a registered to a certified family care home.
- ◆ Owning multiple family care homes.

Please note these scenarios are meant to illustrate high-impact barriers providers might encounter in these common circumstances, rather than a comprehensive look at the development process.

## Starting a New Child Care Business

Engagement with providers provided insight into how different regulations, agencies, and requirements for opening or expanding an early childhood care and education facility are extremely difficult, if not impossible, for some to navigate. Understanding and meeting requirements can take significant time, connections and money, and many providers are not able to overcome barriers when they arise during the process. This section provides illustrative examples of the barriers child care providers may face when opening a new in-home or center-based facility.

### FAMILY CHILD CARE HOMES

Providers often face several challenges when opening a registered or certified family home.

- ◆ **Opening a child care facility in a current residence:** A provider would need to verify their property is properly zoned for the child care they intend to provide. If the property is located in a residential or commercial zone, registered and certified family homes should be allowed uses by right per state law. However, many zoning codes do not reflect these new state requirements which could cause confusion for both providers and jurisdictions verifying a property's zoning allowances. If the property is not located in a residential or commercial zone, the provider may need to apply for a



conditional use permit if the in-home child care is allowed conditionally within the zone. After zoning is confirmed, the provider must also confirm the requirements of all other permitting and licensing agencies, including the local building department to determine whether a change of occupancy is required.<sup>25</sup>

- *Note: If the provider does not live in the home, the Department of Early Learning and Care may require a completed Land Use Compatibility Statement form. A provider must first submit this form for approval by their local jurisdiction.*
- ◆ **Verifying the home meets licensing requirements:** A provider will need to check Department of Early Learning and Care licensing requirements to ensure the home and the space within the home intended to be used for child care meets facility requirements. Key requirements to verify include confirming there is enough classroom and outdoor space per child if the facility is a certified family care home and ensuring plumbing fixtures (primarily toilets and sinks) and fire safety standards can be met. If the home and space do not meet Department of Early Learning and Care requirements, the provider may be limited in their enrollment capacity, or they may need to do renovations to comply, which could require a building permit.
- ◆ **Renting a home to open a child care business:** If a provider is renting a home and would like to utilize it for child care, they will need approval from their landlord if the home requires renovations to comply with licensing requirements. While landlords cannot technically prohibit tenants from operating licensed in-home child care in rental units, community outreach revealed that many landlords prefer not to lease to child care providers, citing building upgrades, noise, wear and tear, or liability risk.
- ◆ **Capacity limits:** Oregon's child care licensing division imposes a limit of 16 children for in-home child care facilities, regardless of the home's size or the provider's capacity to care for more children. Any child care operation seeking to accommodate more than 16 children must become a certified child care center. Many in-home child care providers feel that this limit is arbitrary and restrictive, as they often have homes spacious enough to safely care for a larger number of children. This regulation poses a significant barrier for providers who wish to expand their businesses without transitioning to a child care center, which comes with its own set of complications and challenges discussed below.

## CHILD CARE CENTERS

Finding the right space or property to buy or lease is often the first step for many providers. Even if a provider already has a family child care home, it is very unlikely that the home would be able to be modified into a center. This is primarily because a change of use would be required, triggering extensive upgrades to the home driven by building codes and center licensing requirements (e.g., fire sprinklers, accessibility standards, plumbing, exits). Additionally, centers are typically not allowed by right in residential zones, and it would be

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<sup>25</sup> According to OAR 414-350-0130(2)(2), a home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care facility.



very difficult to meet the conditional use requirements for a zoning permit. Given these challenges, a provider would most likely need to find a new space better suited for a child care center.

- ◆ **Locating a *site* zoned for a child care center:** A provider would need to consult the jurisdiction's zoning code or staff to see where child care centers are allowed by right. If a provider is not able to find an available property zoned for child care by right, they may need to settle on a property that allows child care centers as a conditional use, which can add substantial time and cost to the project. However, to apply for a conditional use permit, the provider would need to have site control or partner with the property owner to sign permit applications. This introduces a significant level of risk, as there is no guarantee that the conditional use permit will be approved or that the provider will be able to meet the conditions attached to the permit.
- ◆ **Locating a *building* suitable for a child care center:** Assuming the provider is planning to utilize an existing building, rather than building new, a provider will need to identify a space that meets both building code and licensing requirements for a child care center. This means the building's existing use will need to be classified as either E or I-4. If the building has a different classification, a change of occupancy is required. This will likely require hiring a consultant (i.e. an engineer or an architect) to draw up building plans that demonstrate upgrades that comply with E or I-4 building standards, often triggering substantial building upgrades. The building will also need to comply with licensing requirements for outdoor space; while the provider can submit a request for an alternative outdoor space, they would still need to be safely located near a qualifying park.
- ◆ **Leasing space in a mixed-use building:** Some providers shared that finding a space in a newer mixed-use building might be ideal since the space is newer and built to more stringent and modern safety standards. Many of the necessary upgrades can be accomplished through Tenant Improvements (TIs), which are less burdensome. Additionally, in order to get the space leased, property owners are motivated to help navigate the building permitting process on behalf of the tenant. However, if the space isn't initially built out for child care it may lack essential *licensing* requirements (such as open space or sufficient plumbing fixtures) and still require major renovations or be entirely unsuitable. While some buildings have allowances for tenant improvements, the amount available will vary by property, and providers are often hesitant to invest in a space they do not own. Additionally, providers shared experiences of difficulty finding a landlord to lease to them, citing building upgrades, noise, wear and tear, or liability risk.

Some providers, with enough time and access to capital, will be able to overcome these challenges, but they are often insurmountable for many, particularly first-time providers. Combined with zoning requirements, building code and licensing requirements there are very few buildings on the market that could be used without major renovations.



## Registered to Certified Family Home

If a registered family care provider would like to become a certified family care provider, they may need to make several upgrades to their space to meet Department of Early Learning and Care requirements.

- ◆ **Potential building upgrades:** Providers may need to upgrade their homes to meet indoor and outdoor activity space requirements, add additional toilets and sinks, or add additional exits.
  - While registered family homes only need to provide “a balance of indoor and outdoor play space”, certified family homes must provide at least 35 square feet of indoor activity space per child (not including bathrooms, hallways or staff areas), and at least 75 square feet of outdoor activity space per child, as well as fencing.
  - While registered family homes only need one flush toilet and handwashing sink available, the provider will have to add a second if they intend to enroll more than 12 toddlers or 15 children.<sup>26</sup>
  - While registered family homes only need two useable exits per floor, certified family homes must have at least two useable exits per room.<sup>27</sup>
- ◆ **Additional staff:** Depending on the children’s ages, one provider can only care for up to 10 children at once, so a provider looking to expand will need to hire additional staff. The number of staff a certified family care home must have depends on the total number of children in care and the total number of children under two. Depending on the provider’s planned enrollment, they could need to hire between one and three additional providers.
- ◆ **Experience limitations during the first year:** Unless the registered care provider has qualifying education or prior experience in a school, center, or Head Start program, they can only enroll up to 12 children during the first year of being a certified care provider. After the first year, the provider can enroll the full 16 children.<sup>28</sup> Unless the provider’s home already meets Department of Early Learning and Care requirements for certified family care homes, costs associated with potential building upgrades and staffing may outweigh the potential revenue of additional enrollees, especially in the year following the renovations.

Even if the provider would like to grow their business, the additional requirements for certified family care homes may be a major barrier for expansion. This specifically poses challenges for child care providers when operating in existing homes outside the Urban Growth Boundaries.

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<sup>26</sup> This rule is currently under review for potential revision.

<sup>27</sup> This rule is currently under review for potential revision.

<sup>28</sup> The Department of Early Learning and Care, [The Certified Family License](#) (2024)



## Multiple Family Care Homes

Discussions with child care providers revealed that instead of attempting to open a single larger child care center, some may opt to establish multiple certified in-home daycares across several housing units. This approach allows providers to expand their business without navigating the complexities and regulations associated with opening a child care center. Many providers shared that running only one registered or certified family child care home may not necessarily be able to cover all of the business expenses of space costs, staffing, and other program expenses. However, these providers often do not have the time or capital required to find, permit, occupy, and license a new center, even if it could eventually be more sustainable business model. As an intermediate solution, providers may look to rent or own additional homes to be used for child care.

Owning multiple family certified child care homes can come with additional challenges. Some jurisdictions require someone to live in the dwelling unit, even if the Department of Early Learning and Care does not. Finding suitable tenants or staff members willing to live in units shared with child care spaces has proven difficult in some instances. The periods of vacancy that occur between tenants can also create both perceived and real risks for child care providers by potentially jeopardizing their compliance with residential occupancy requirements.

## Case Studies in Oregon

The following case studies, drawn from experiences of child care providers and architects, offer tangible examples of the challenges faced in starting or expanding child care facilities. The case studies presented below were identified through engagement with the work group and community outreach with providers and underscore the range and depth of barriers to expanding access to child care in Oregon.



## CASE STUDY #1: CONDITIONAL USE FOR EARLY CHILD EDUCATION (ECE) FACILITIES

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### OREGON CHILD DEVELOPMENT COALITION (OCDC) JOSE PEDRO CHILD CARE FACILITY

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- » **Type of provider:** Early and Migrant Head Start Child care Provider
- » **Provider location:** Cornelius, OR
- » **Project overview:** A 17,000 square foot facility that serves approximately 180 children in the infant, toddler and preschooler age ranges. The facility includes 12 classrooms, an onsite commercial kitchen, indoor studios for the preschool age children, outdoor creative play areas for age-appropriate play spaces, and onsite office space for approximately 25 site and countywide child care staff.

Looking to expand their services, the Oregon Child Development Coalition (OCDC) began searching for available land in Cornelius. Like many rural and agricultural communities statewide, available land that would allow for child care onsite was rare, but OCDC eventually purchased a four-acre parcel.

The base zoning for the parcel allowed for low density residential uses outright, with a Type III Conditional Use requirement for any school related uses (including child care). Given the 120-day codified timeline for conditional use review and the limited window to apply for and allocate federal Health and Human Services project funding, OCDC immediately submitted the application.

Although public testimony was broadly understanding of the need for child care services in this largely agricultural

community, there was also a general perception that placing this type of use in a residential neighborhood would increase traffic congestion, onsite parking overflow onto adjacent streets, noise to abutting properties, and an unacceptable level of disturbance in the neighborhood. On this basis, the application was initially denied by the City's planning staff, citing too many impacts to the surrounding area.

Given the essential need to expand services, OCDC appealed this decision to the planning commission. In the appeal, OCDC provided an additional comprehensive traffic analysis showing that peak traffic counts and flow patterns at the subject site were well within the ability of the neighborhood collector standard. Based on this additional study presented, the planning commission approved the conditional use on appeal and the project was ultimately permitted and built.

**The conditional use and appeal process added approximately six months to the permitting process and risked project funding during a critical juncture in its development. Fortunately, the project survived the additional land use review scrutiny. Overall, conditional use requirements can make developing new facilities for early child care services more difficult than uses that are permitted outright or with prescriptive limitations in place.**



## CASE STUDY #2: PLUMBING CODE IMPACT ON EARLY CHILD CARE EDUCATION FACILITIES

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### OREGON CHILD DEVELOPMENT COALITION (OCDC) HERMISTON HEAD START FACILITY

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- » **Type of provider:** Early Head Start
- » **Provider location:** Hermiston, OR
- » **Project overview:** A 12,000 square foot facility offering eight classrooms, indoor and outdoor play areas for infants, toddlers and preschool age children.

The Oregon Child care Development Coalition (OCDC) operates more than 25 facilities statewide, mostly featuring classroom pairs that share a common core with shared toilet rooms for the toddler and preschool age groups. These toilet room designs typically include a half wall, plus half height toilet partitions for each water closet so that staff can monitor the children from either classroom and easily assist if the children need help with toilet training.

This layout has been used almost universally for many decades and is found

in many widely used child care design guidelines. Since these children are very young and have not yet developed the need for greater privacy, this is a good solution to meet their needs without compromising their safety or privacy. However, it is not directly supported in the State building code requiring the local building official to review and approve the configuration during plan review. The code does allow for a single open water closet for use in child care toilet rooms, but realistically these toilet rooms need closer to four water closets and lavatories to serve all the children in the classrooms. In practice, most building officials have understood the efficiency of the semi-open shared toilet rooms arrangement.

However, in the case of OCDC's Hermiston facility, the local building department did not allow this configuration for the children's shared toilet rooms, citing a loss of privacy for the toddlers and preschooler age children. The code gives some discretion on layout to the local officials, so OCDC was ultimately required to redesign the common core for that project. In addition to adding project costs, this configuration requires much greater staff attention and time to attend to the children's toileting needs, which takes away from other tasks and priorities in the classroom.

**Local officials must review and approve any deviation from a strict adherence to the code requirements for toilet room designs for child care settings. This puts the discretion on the local official who, by right, can deny this configuration if they feel it is at odds with the intent of the code and the local community standards. In practice, this puts an undue burden on both the local building official and the child care providers, who may face greater obstacles in designing common sense solutions to meet the needs of very young children in those settings.**



## CASE STUDY #3: CONSOLIDATING MULTIPLE CERTIFIED FAMILY CHILD CARE HOMES ONTO A SINGLE SITE

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### FOUR DAYCARES ON A SINGLE LOT

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- » **Type of provider:** Certified Family Child Care Home
- » **Provider location:** Portland, OR
- » **Project overview:** Four certified family child care homes on a single lot, housed within a triplex and a detached single-family home.

Two Portland-based child care providers encountered barriers when attempting to consolidate their four certified family care homes (two in detached single-family rental homes and two in single family homes they owned) into a single commercial center.

The search for a suitable commercial space for the center brought to light several challenges, particularly related to a required change of occupancy. The provider toured numerous potential locations but found that very few had the required E occupancy rating, which is

essential for operating a child care center. They identified a promising space where a child care center was allowed under current zoning regulations, but the building's occupancy would need to be changed. After consulting with the city, they learned there was no guarantee the change could be approved and the initial process could cost between \$27,000 and \$50,000. After determining they could not afford to take on this level of risk and financial investment, they decided not to pursue expanding into a center and to remain as certified family homes. The providers noted that the only viable spaces for centers, outside of building something new, are former school buildings with the existing necessary E occupancy rating.

The providers then explored other options such as two duplexes, where teachers would reside in one unit and utilize the other unit for child care. At the time the city did not allow for a residential unit to be utilized only for child care; someone must reside in the home as well. The providers then found a single family-home on a double lot for sale, and considered briefly exploring the possibility of rezoning the lot to commercial in order to build a center, but found that process would take too long and cost too much. Ultimately, the providers built a triplex next to the existing home, where each housing unit is a condo and maintains a separate provider license. This approach allowed them to consolidate their business onto one site as originally intended, but this process still uncovered several barriers and ultimately places limitations on their ability to further expand their business.

- ♦ **Triplex units:** Due to site constraints, the units needed to be small to fit three on site and provide enough space for a classroom in each unit. The small one-bedroom apartment can limit the pool of people who may want to live there. Additionally, the building code did not allow for total separation of the residential space and the classroom, so they were required to provide access between them. The providers were informed that the Portland has an additional provision in its building code prohibiting



a residential unit from having two full kitchens, so the classroom is limited to a kitchenette which does not include a kitchen range.<sup>29</sup>

- ◆ **Capped capacity:** The single-family home + triplex arrangement limits the provider to the four certified family licenses on the site, so their capacity is capped to 64 kids which also limits the amount of revenue the business can generate. The providers found that residential mortgage is more expensive than leasing a center space, possibly as much as just one of their mortgages. Therefore, the ongoing costs are higher than a center, and their gross income is capped because of their limit of four licenses.
- ◆ **Financing:** The providers found it was very difficult to find a bank that understood using a Small Business Association loan for a business in a residential unit. Banks they met with often tried to equate it to an elderly care home.
- ◆ **Toilets:** To have sixteen children in a certified family home, there must be two toilets in the classroom. However, if there are only fifteen children, only one toilet is required. Therefore, the second toilet the providers were required to add is essentially for one child.<sup>30</sup>

**After navigating several challenges such as finding a suitable space, navigating zoning restrictions, and securing financing, the providers ultimately found a path for consolidating their business onto one site. However, this arrangement still poses limitations on their ability to further expand their business due to capacity constraints and likely incurred more costs compared to buying or leasing a suitable center space.**

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<sup>29</sup> The triplex meets the definition of a “townhome” in the building code, so it was constructed in accordance with the Oregon Residential Specialty Code.

<sup>30</sup> This rule is currently under review for potential revision.



## CASE STUDY #4: LOCATING A CHILD CARE CENTER ON A CHURCH PROPERTY

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### CHILD CARE IN CHURCH'S ACCESSORY STRUCTURE

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- » **Type of provider:** Certified Family Child Care Home
- » **Location:** Outside the urban growth boundary
- » **Project overview:** Provider wants to locate and expand existing child care business into a certified child care center in an accessory building on a church property.

A provider would like to expand her business to become a certified child care center. A church agreed to let her use a secondary building on their property that was originally built as a classroom annex in the 1960s. However, the property is located outside the urban growth boundary and is zoned Rural Residential. Rural zoning classifications have significant limitations placed on them based on state statutes and administrative rules for development outside of urban growth boundaries. The Rural Residential zoning classification essentially only allows the development of low-density residential with a five-acre minimum lot size.

The provider was required to submit a Type I lawful existing use determination since the church and the classroom are not permitted uses per current zoning. This required the provider to obtain property records to demonstrate that the use was legally established and to determine if the classroom space had been used for child care. While county staff had access to these records, the provider was required to submit a public records request only to submit them back to another county department. This process also required fees the provider was not expecting.

Original building plans labeled the accessory building as an Education and Administrative Building, with classrooms labeled (among other rooms). The records also indicated the most recent occupancy classification for the accessory building was Group A-3 (church assembly) and B (businesses and office). The building official noted that regardless of what the actual uses were when construction was completed, the most recent classification of A-3 does not align with certified family child care center, which would require Group E occupancy. The provider was notified that building permits are required when an existing building undergoes a change of occupancy or a change of use, cited under the Oregon Structural Specialty Code 105.1, and she would likely need to hire a designer to prepare floor plans and other necessary documentation for the county to review.

**Despite the accessory building's prior documented use as an educational space, the provider faced several barriers that have caused unexpected expenses and delays, including obtaining records, hiring an attorney to help navigate the process, and eventually hiring a designer to prepare and submit for a building permit.**



# 5. Potential and Actual Disparate Impacts

## CHAPTER 5 OVERVIEW

House Bill 2727 requires the work group to examine how zoning regulations, state and local building codes and permitting practices inhibit new and expanded child care across the state. The final report, prepared for the legislature, is required to identify and describe any potential and actual disparate impacts that zoning regulations, building codes and permitting practices have on providers, in consideration of diversity factors including but not limited to race, ethnicity, language and geographic location of such providers. This chapter provides a summary of disparate impacts uncovered during the research, particularly during community engagement. Impacts related to the following topics are described in this section include:

- ◆ Regional disparities
- ◆ Language barriers
- ◆ Child care centers in religious institutions
- ◆ Impacts of homeownership by race and ethnicity in Oregon

Starting or expanding a child care business in Oregon can be a complex and challenging process, and providers may encounter a wide variety of barriers along the way. However, the nature and severity of these barriers can vary significantly depending on several factors, including the type of facility (in-home or center-based), geographic location (rural or urban areas), the provider's race and/or ethnicity, and their primary language. This chapter will examine the potential and actual disparate impacts that providers face based on some of these factors, drawing upon insights gathered from survey results, work group discussions, focus groups, and interviews.

Understanding child care patterns by race and ethnicity is helpful for identifying potential disparities and barriers faced by providers and families related to the development and expansion of child care in Oregon. A study by the Urban Institute on the child care patterns of White, Black and Hispanic children found differences in the types of child care used by the three groups. Black children are the most likely to be enrolled in early childhood education and are much more likely to attend a child care *center* compared to White or Hispanic



children. Conversely, Hispanic children are less likely to be enrolled in a center and are more likely to attend home-based child care.<sup>31</sup>

## SUMMARY OF SURVEY DEMOGRAPHICS

The providers survey results provide additional context for highlighting the importance of considering the unique challenges and barriers faced by providers across Oregon.

- » Most providers that responded to the survey are located within a city's limits, teach their programs in English and Spanish (23% teach their programs in Spanish), are white and Hispanic or Latino.
- » BIPOC respondents are more represented among center-based providers.
- » There is almost an equal number of survey respondents who rent vs. own their child care facility. Respondents in center-based programs are more often renters, where home-based are more often owners.

## Regional Disparities

Access to resources and support for child care providers can significantly impact their ability to navigate the complex process of establishing or expanding facilities. While the survey aimed to gather insights from providers across Oregon, it is important to acknowledge the limitations in the data collected. The survey distribution and the level of engagement from providers were skewed towards urban areas, particularly in the Portland metropolitan region. Most survey respondents were located in Multnomah, Clackamas, or Washington County, which may not fully represent the experiences and challenges faced by providers in other parts of the state, especially in rural areas. Despite these limitations, the survey results, along with insights from interviews and focus groups, highlight some key regional disparities that can influence the development and expansion of child care facilities in Oregon.

## Local Staff Capacity and Technical Expertise

Local staff capacity and technical assistance plays a crucial role in helping child care providers navigate the complex process of establishing or expanding their facilities in an efficient manner. However, access to knowledgeable staff with capacity to assist provider varies greatly across different regions and localities. Engagement with local regulators, including city and county staff, discussed some experience with informally designating staff members who specialize in the intricacies of child care facility development from the variety of development angles, including land use and zoning, building code and state child care licensing requirements. These experts can serve as a valuable resource **when accessible** to providers, but this appeared to occur more frequently in more urban areas with larger

<sup>31</sup> The Urban Institute, [Caring for Children of Color: The Child care Patterns of White, Black, and Hispanic Children under 5](#) (2006)



departments. By contrast, smaller jurisdictions with limited staff capacity may be less versed on state rules and regulations related to child care facilities and unable to offer specialized assistance. This appears to result in different experiences and requirements placed on urban and rural providers.

However, survey results indicate that respondents who faced zoning, building code, and permitting barriers are primarily from more urban areas. Among survey respondents:

- ◆ 32 percent of home-based providers and 25 percent of center-based providers reported that city or county staff lacked the capacity to offer technical assistance on zoning issues.
- ◆ 30 percent of home-based providers and 24 percent of center-based providers reported similar challenges with building codes.
- ◆ 34 percent of home-based providers and 27 percent of center-based providers reported challenges with permitting and procedures.

Respondents noted that these barriers either prevented them from moving forward with their projects or made the process more costly and difficult.

Additionally, 46 percent of home-based and 47 percent of center-based respondents noted that the time required to obtain a permit had a significant impact on their ability to open or expand their facilities.

## Infrastructure and Market Factors

Rural areas may also face barriers to accessing development resources. Contractors and tradespeople can be in short supply with long waitlists to receive bids and/or complete projects. Access to utilities such as water, sewer/adequate septic, and electricity can be a significant barrier, especially in rural or undeveloped areas. In addition, the lack of technology infrastructure, especially in rural regions, can also be a barrier to receiving financial and technical assistance supports, staff training, and completion of necessary documentation that can delay the process of expansion.

## Language Barriers

Technical zoning, building code, and permitting processes and requirements can be even more difficult to understand for non-native English speakers. The landscape of regulators may not speak languages other than English or have written resources, applications, or other forms available in multiple languages, making it more difficult for non-English speakers to get connected to the technical assistance and resources necessary to navigate the development process. This creates obstacles to building relationships with local agencies that can help providers navigate the process more efficiently.

Survey results showed that about five percent of home-based providers indicated that not having information on requirements in their primary language stopped them from opening or expanding their business entirely, while three percent of center-based providers indicated



that not having development information (including information on zoning, permit requirements, and building codes) in their primary language made it difficult and/or costly to open or expand.

Although many efforts are being made to provide child care training and child care licensing resources in multiple languages, providers noted a gap in these resources within local community development departments, which can result in inequitable access to establishing child care businesses for some communities.

## Child Care Centers in Religious Institutions

Center-based child care facilities, particularly those located in churches, face unique and disproportionate challenges in opening or expanding. Engagement with providers and other key community members noted that the COVID-19 pandemic had a substantial impact on center-based programs, primarily due to their size and operating costs. The pandemic led to reduced enrollment, increased operating costs, and, in some cases, permanent closures for many child care centers across the country and Oregon as well. Several providers shared that when centers sought to reopen following the pandemic, they learned their previously nonconforming use had expired, requiring new conditional use permits and upgrades to current building code requirements. For many long-time centers that closed during the pandemic, the financial barrier alone proved to be too much and they have not reopened.

Center-based programs also face significant barriers in securing suitable facilities. The limited availability of buildings on the market that meet both the necessary use and occupancy requirements and licensing standards makes it difficult for centers to find appropriate spaces, in both urban and rural areas. Furthermore, centers are more often subject to land use reviews, particularly the conditional use process when located in a residential zone.

For centers operating within churches, the barriers are even more challenging. Churches and daycares have different use and occupancy thresholds and requirements, which means that creating a dedicated space for a daycare within a church or on church property requires a change of use for that specific area. Navigating this process can be complex, as it involves ensuring compliance with several layers of regulations for both the church and daycare use classification.

The barriers faced by center-based child care programs overall may disproportionately affect Black families, who rely more heavily on these programs for child care. Additionally, the barriers for centers in religious institutions greatly impact families who seek child care opportunities connected with their religious communities.

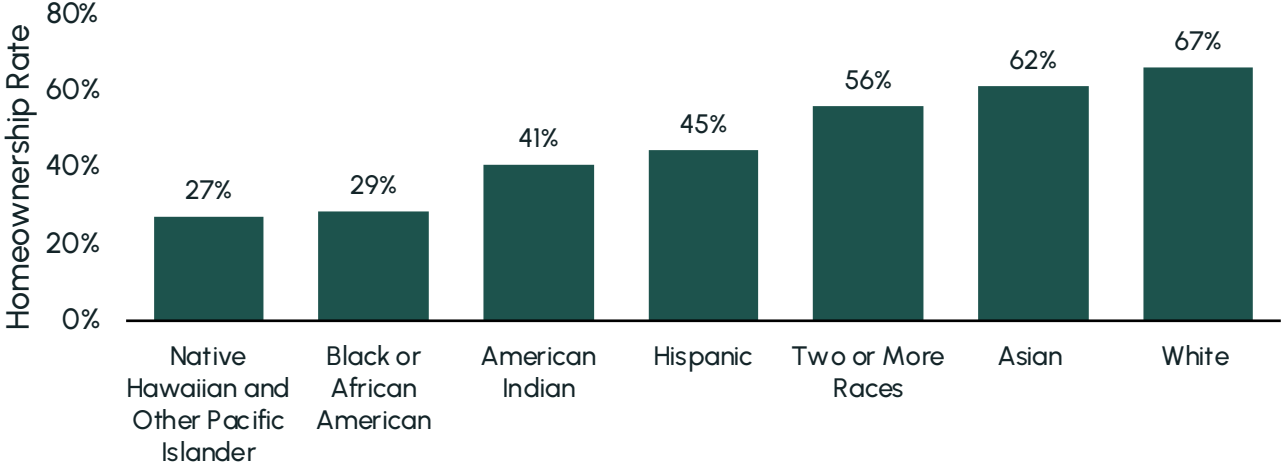
## Homeownership Rates Among BIPOC Households in Oregon

Homeownership plays a crucial role in the establishment of home-based child care businesses in Oregon. Survey results showed that 77 percent of respondents that were home-based child care providers operate their businesses out of a single-family home they own.



However, significant disparities in homeownership rates exist among different racial and ethnic groups in Oregon. Native Hawaiian and other Pacific Islander, Black and Native Alaskan/Native American households in Oregon have the lowest homeownership rates, as shown in Exhibit 2 below, limiting the opportunity to start in-home child care businesses.

**Exhibit 2: Rate of Homeownership in Oregon**



Source: 2021 1-year PUMS

The barriers faced by child care providers seeking to start a child care business in a rental unit, as discussed throughout the report, further compound the challenges for low-income and/or BIPOC households seeking to enter the child care industry. If the homeownership gap persists, BIPOC households will continue to face significant obstacles and disproportionate impacts in starting and operating home-based child care businesses.



# 6. Other Barriers and Next Steps

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Through community engagement, the project team discovered barriers beyond the scope of House Bill 2727. However, it is important to note that these challenges significantly impact child care facility establishment and expansion. Acknowledging these interconnected barriers is crucial for developing comprehensive strategies to support child care growth and sustainability in Oregon. The following section briefly highlights other significant barriers that emerged during our engagement process. Providers emphasized that these barriers impact their ability to operate and expand as much as the development process covered in this report.

- ◆ **Workforce development:** Attracting, training, and retaining qualified staff is a significant challenge for child care providers. Low wages, limited benefits, and high turnover rates have made it difficult for child care business owners to build a stable and skilled workforce.
- ◆ **Funding:** Insufficient funding, complicated grant requirements, and a lack of sufficient government subsidies can make it challenging for child care providers to cover capital investments and on-going operating costs.
- ◆ **Mental health and well-being:** Child care providers often experience high levels of stress and burnout due to the emotional demands of their work.

## Next Steps

The next phase of this study will focus on developing recommendations to address the barriers to developing and expanding child care facilities in Oregon as outlined in this report. The recommendations will be informed by the findings from the local review research, case studies, interviews, focus groups, and survey results presented in the previous chapters.

To create effective recommendations, DLCD and the project team will develop a high-level framework to prioritize the identified barriers based on their impact and the level of effort required to address them. This framework will help guide the development of targeted solutions that can make the most significant difference in facilitating the expansion of child care facilities across the state.

Developing recommendations will involve further engagement with key community members including child care providers, regulatory agencies, and policymakers. This engagement will ensure that the proposed solutions are well-informed, feasible, and responsive to the needs of those most affected by the identified barriers.

Preliminary recommendations will be presented during the third work group meeting in late July 2024.



# Appendix



# Appendix A: Jurisdiction Research

## City of Coos Bay

### Key Findings

- ◆ Across child care definitions provided by the City, none of the uses are allowed in all commercial or industrial zones as required by ORS 329A.440.
- ◆ Department of Early Learning and Care allows certified home-based providers to care for up to 16 children: however, Coos Bay limits smaller facilities to twelve children or fewer. The city also defines child care facilities as “established by state licensure to provide supervisory or day care services for 13 or more children; it is not clear how establishments serving twelve or fewer children are defined. The City also defines educational opportunities and home occupations but it is not clear what overlap, if any, these uses have with early childhood care and education facilities.

### Land Use

**Exhibit 3: City of Coos Bay Land Use Allowances**

	RESIDENTIAL				COMMERCIAL			INDUSTRIAL		INSTITUTIONAL	
	SLR	LDR	MDR	C	MX	WH	HP	I-C	W-I	MP	UPD
<b>Child care facility for &lt;13 children</b>	P	P	P	P	P	P		P			
<b>Child care facility for &gt;14 children</b>	C	C	P	P	P			P			
<b>Educational service</b>	P	P	P	P	C	X		P			P
<b>Home occupation</b>	P	P									

Source: City of Coos Bay [Development Code](#) Section 2 Zoning 17.220 to 17.270

P: Permitted use; C: Conditional use; S: Permitted uses that are subject to special standards; X: Prohibited

### DEFINITIONS<sup>32</sup>

**Child care facility:** Establishments authorized by state licensure or certification to provide supervisory or day care services for 13 or more children, excluding uses classified as educational facilities or medical facilities, and where communal kitchen/dining facilities may be provided. Typical uses include day care centers, day care facilities, or drop-in centers.

**Educational institution:** A facility customarily associated with public, private, charter, and/or alternative educational facilities, including nurseries and pre-schools (ages zero through five)

<sup>32</sup> City of Coos Bay [Development Code Chapter 17.150 Definitions](#)



and “preschools providing primarily instruction, supplemented by daytime care, for four or more children between the ages of two and five years, and which operate on a regular basis”.

**Home occupation:** An occupation, profession, or craft secondary to the use of a dwelling unit for residential purposes and is carried on by a dwelling resident.

## Building Code

Coos Bay has adopted the Oregon state building codes and does not have any city-specific building code provisions.<sup>33</sup>

## Permits and Procedures<sup>34</sup>

All applications for land uses are subject to review prior to building permits. Permitted uses require a Type I procedure, nonresidential conditional uses under 20,000 square feet require a Type II permit, and nonresidential conditional uses over 20,000 square feet require a Type III permit. All home occupations applications are subject to director review using a Type I procedure review, and a Type II procedure if the business will have more than one nonresident employee. The home occupation may not use more than 30% of building coverage.

### Exhibit 4: City of Coos Bay Conditional Use Procedures

	TYPE I	TYPE II	TYPE III
<b>Review Authority</b>	Director	Director	Director
<b>Appeal Authority</b>	Planning Commission	Planning Commission	City Council
<b>Notice of application</b>	None	Noticing 20 days prior to director decision	Noticing and public hearing 20 days prior to director decision
<b>Notice of decision</b>	30 days from complete application	120 days from complete application	14 days from complete application
<b>Appeal period</b>	15 days from decision	15 days from decision (appeal period is included within the 120 day review)	15 days from decision (appeal period is included within the 120 day review)

<sup>33</sup> Coos Bay [Current Adopted Building Codes](#)

<sup>34</sup> City of Coos Bay Development Code [Chapter 17.130 Procedures](#) 17.130.020 Application Types



<b>Notice of appeal decision</b>	28 days from appeal	No more than 60 days after the appeal is filed	No more than 60 days after the appeal is filed
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Source: City of Coos Bay Development Code [Chapter 17.130 Procedures](#)

## Benton County

### Key Findings

- ◆ Benton County does not meet the requirements of ORS 329A that require early childhood care and education centers to be allowed in commercial and industrial zones.
- ◆ Per the Department of Early Learning and Care, home-based early childhood care and education facilities can serve up to 16 children; however, the County requires “day care centers” serving 13 or more children to comply with state building regulations for early childhood care and education *centers*, which are much more stringent than requirements for home-based facilities.
- ◆ The County requires early childhood care and education facilities to provide two parking stalls per teacher, which can add costs and limit potential available sites.
- ◆ Conditional use permits are generally only valid for two years, after which the provider would need to resubmit for a new conditional use permit.

### Land Use

#### Exhibit 5: Benton County Land Use Allowances

	RESIDENTIAL				COMMERCIAL						INDUSTRIAL				SPECIAL USES
	RR	UR	PR	VR	UC	PC	RC	VC	P	RSC	UI	PLI	RI	FPA	CFH <sup>35</sup>
<b>Day care for &lt; 13 children</b>	P	P	P	P	P	P	P*	P*	P	P				P	
<b>Day care center</b>	C	C	C	C					C	P**				C	P

Source: [Benton County Development Code](#)

\* Must be less than 4,000 square feet.

\*\* Permitted pending an approved site development plan.

P: Permitted; C: Allowed by conditional use permit

<sup>35</sup> Children’s Farm Home Subzone



## DEFINITIONS

**Day care center:** an establishment providing specialized group care for 13 or more children.<sup>36</sup>

## LAND USE REGULATIONS

Chapter 91 of the Benton County Development Code outlines specific use standards for day care centers, which must:<sup>37</sup>

- ◆ Comply with the occupancy requirements of the Benton County Building Code.
- ◆ Comply with State regulations for **a day care center**.
- ◆ Provide two parking spaces per teacher.

## Building Codes

Benton County has adopted the state building code and does not have any city-specific child care building codes.<sup>38</sup>

## Permits and Procedures<sup>39</sup>

Conditional uses require public notice and approval by the planning official.

In addition, on-site and off-site conditions may be imposed. Conditions may address but are not limited to: (1) Size and location of site. (2) Road capacities in the area. (3) Number and location of road access points. (4) Location and amount of off-street parking. (5) Internal traffic circulation. (6) Fencing, screening and landscape separations. (7) Height and square footage of a building. (8) Signs. (9) Exterior lighting. (10) Noise, vibration, air pollution, and other environmental influences. (11) Water supply and sewage disposal. (12) Law enforcement and fire protection. An applicant may be required to post a bond to ensure compliance with a condition of approval.

The conditional use permit is valid for ten years for a single-family dwelling and two years for all other structures.

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<sup>36</sup> Benton County Development Code [Chapter 51 Development Code Administration](#)

<sup>37</sup> Benton County Development Code [Chapter 91.105 Specific Use Standards](#)

<sup>38</sup> Benton County [Building Code](#)

<sup>39</sup> Benton County Development Code [Chapter 53.200](#)



# Clatsop County

## Key Findings

- ◆ Clatsop County meets the land use allowance requirements of ORS 329A.440.
- ◆ The County’s early childhood care and education definitions align with state licensing definitions.

## Land Use

**Exhibit 6: Clatsop County Land Use Allowances**

ZONE	Residential				Commercial			Industrial			Agriculture						
	RC R	SF R	MF R	CB R	C R	R A	RC C	N C	G C	T C	RC I	LC C	L I	EF U	A F	F	M R
<b>Family child care home</b>	P	P	P	P	P	P	P	P	P	P				P	P	P	P
<b>Child care center</b>	C	C	C	C	C	C	P	P	P	P	P	P	P				P

Source: Clatsop County Code of Regulations [Article 4 – Zone Regulations](#)

### DEFINITIONS<sup>40</sup>

**Child care center:** A child care facility that is certified by the Oregon Department of Education Office of Child care as a child care center.

**Family child care home:** A home that is registered or certified by the Oregon Department of Education Office of Child care to provide child care in the provider’s home to not more than 16 children, including children of the provider, regardless of full-time or part-time status. A family child care home is defined as a residential use and not regulated as home occupations. In addition, they cannot be prohibited by the governing documents of planned communities or condominiums.<sup>41</sup>

### LAND USE REGULATIONS

Clatsop County has the following parking regulations for early childhood care and education facilities:<sup>42</sup>

<sup>40</sup> Clatsop County Code of Regulations [Article 1 – Cover and TOC](#)

<sup>41</sup> Clatsop County Code of Regulations [Article 3 – Structure Siting and Development Standards](#) 3.9570

<sup>42</sup> Clatsop County Code of Regulations [Article 3 – Structure Siting and Development Standards](#) 3.0060



- ◆ Family child care homes require no additional parking spaces beyond the two spaces required for the dwelling unit.
- ◆ Child care centers are exempt from off-street parking requirements.

## Building Codes

Clatsop County has adopted the Oregon state building codes and does not have any city-specific building code provisions.<sup>43</sup>

## Permitting Procedures

Permitted uses are nondiscretionary and require a Type I procedure. In general, conditional use requirements for child care centers in residential zones fall require a discretionary Type II conditional use procedure.<sup>44</sup> However, the Community Development Director can determine that the application should be heard by additional parties and treat the application as a Type IIA procedure.<sup>45</sup>

**Exhibit 7: Clatsop County Procedures for Land Use Applications**

	Type I	Type II	Type IIA
<b>Review Authority</b>	Community Development Director	Community Development Director	Hearings Officer
<b>Appeal Authority</b>	Hearings Officer	Hearings Officer	Board of Commissioners
<b>Notice of application</b>	None	None	Noticing 20 days prior to public hearing
<b>Notice of decision</b>	45 days from complete application	45 days from complete application	45 days from complete application
<b>Appeal period</b>	12 days from notice of decision	12 days from notice of decision	12 days from notice of decision
<b>Notice of appeal decision</b>	150 days from complete application	150 days from complete application	150 days from complete application

Source: Clatsop County Code of Regulations [Article 2 – Procedures for Land Use Applications](#)

<sup>43</sup> Clatsop County [Building Codes](#)

<sup>44</sup> Clatsop County Code of Regulations [Article 4 – Zone Regulations](#)

<sup>45</sup> Clatsop County Code of Regulations [Article 2 – Procedures for Land Use Applications](#)



# City of Bend

## Key Findings

- ◆ Bend meets the land use allowance requirements of ORS 329A.440.
- ◆ The City’s early childhood care and education definitions align with state licensing definitions.

## Land Use

**Exhibit 8: City of Bend Land Use Allowances**

Zone type	Residential				Comm-ercial	Mixed Use	Indust-rial	Instit-utional	Urban-izable Area District	
Zone	RL	RS, RM-10	RM, RH	UAR	CB, CC, CL, CG	ME, MR, PO, MU, MN	IG, IL	SM ***	PF	UA
Family day care	P	P	P	P	P	P	P	P	P	
Child care facility/ day care	C	C	C	C	P	P	C**			
Neighborhood Commercial	C*	P*	P	N						

Source: Bend Development Code [Title 2 Land Use Districts](#) Chapters 2.1 to 2.8

P: Permitted use; C: Conditional use; N: Not permitted

\* Not permitted if adjacent to a commercial or mixed-use Comprehensive Plan Map Update.

\*\* Limited to properties located at the perimeter of the Industrial Districts with frontage on arterial or collector streets unless they are an accessory to a primary permitted use. This restriction will be removed in the 2024 update of the Bend Development Code.

\*\*\* Heavy industrial use

## DEFINITIONS

**Child care facility:** Any facilities that provide care to 17 or more children, including a day nursery, nursery school, and child care center or similar unit operating under any name.

**Family day care:** See “Registered or certified family child care home” and “Child care facility.”

**Registered or certified family child care home** means a location where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status. Registered or certified family child care homes shall be considered a permitted residential use of the property for zoning purposes.



**Neighborhood commercial** means certain types of small-scale neighborhood commercial uses identified in BDC Table 2.1.200, Permitted and Conditional Uses, that serve the neighborhood. Neighborhood commercial child care facilities provide care to 13 or more children.<sup>46</sup>

## Building Code

There are no city-specific child care requirements in the Bend building code. City staff noted that some Building Department interpretations of the Oregon adopted codes are that in-home child care is intended for someone to reside in the home and cannot be used as child care use only.

## Permitting Procedures

Permitted uses are required to be processed through Minimum Development Standards (MDS).<sup>47</sup> In this review, city staff will confirm the application meets minimum development criteria. If a proposed change in use is found to increase demand on public facilities, the application is either processed as an MDS exemption (showing the site complies and will remain in compliance with the building code) or a Type I MDS review by the Community and Economic Development Director.

Conditional uses are classified as a Type II procedure.<sup>48</sup>

### Exhibit 9: City of Bend Development Review and Procedures

	Type II
<b>Review Authority</b>	Community and Economic Development Director
<b>Appeal Authority</b>	Hearings Officer or Planning Commission
<b>Completeness Check</b>	30 days from application submittal
<b>Notice of application</b>	Minimum of 14 days prior to notice of decision
<b>Notice of decision</b>	120 days from complete application. Application extensions (no more than 245 days) can be requested in accordance with BDC 4.1.412.D. The applicant can ask for a reconsideration (not an appeal) within 12 days from notice of decision; the 120-day review period does not run during this period of reconsideration.
<b>Appeal period</b>	Must file the appeal within 12 days of the notice of decision

Source: City of Bend [Section 4.1](#) Development Review and Procedures

<sup>46</sup> City of Bend Development Code Section 3.6.300(J) Neighborhood Commercial Sites

<sup>47</sup> City of Bend Development Code [Section 4.4.400](#) Minimum Development Standards

<sup>48</sup> City of Bend Development Code [Section 4.4.200](#) Conditional Use Permits



# City of Portland

## Key Findings

- ◆ Portland meets the land use allowance requirements of ORS 329A.440.
- ◆ The City’s early childhood care and education definitions align with state licensing definitions.
- ◆ The City’s seismic upgrade requirements are more stringent than the state building code.
- ◆ Permitted uses do not require a land use permit; conditional uses require a Type II or III procedure.

## Land Use

**Exhibit 10: City of Portland Land Use Allowances**

	RESIDENTIAL			COMMERCIAL	EMPLOYMENT AND INDUSTRIAL			CAMPUS		
	RF, R20, R10, R7, R5, R2.5	RM1, RM2, RM3, RM4, RMP**	RX	CR, CM1, CM2, CM3, CE, CX	EG1, EG2	EX	IG1, IG2, IH	CI1	CI2	IR
<b>Household Living Uses</b>	Y	Y	Y	Y	N	Y	CU***	N	Y	Y
<b>Daycare</b>	L/CU*	L/CU**	Y	Y	Y	Y	L/CU****	Y	Y	CU

Source: Portland City Code [Title 33.110 to 33.150 Base Zones](#)

Y = Yes, allowed; L = Allowed, but special limitations; CU = Conditional Use Review Required, N = No, Prohibited

\* Allowed by right if locating within a building that contains a College, Medical Center, School, Religious Institution, or a Community Service use.

\*\* Allowed if the daycare is located on the ground floor and 3,000 square feet or less.

\*\*\* Only allowed if on a houseboat.

\*\*\*\* Allowed if 3,000 square feet or less, otherwise conditional use.

## ZONING CODE DEFINITIONS<sup>49</sup>

**Daycare:** Includes day or evening care of two or more children outside of the children's homes, for a fee. Daycare uses also include preschools, nursery schools, latchkey programs, and the daytime care of teenagers or adults who need assistance or supervision. Accessory uses include offices, food membership distribution, play areas, and parking.

<sup>49</sup> Portland City Code Title [33.910 Definitions](#)



Daycare use does *not* include registered or certified family child care homes as specified in ORS 329A. Registered or certified family child care homes for up to 16 or fewer children, including the children of the provider that also meet the State’s requirements are classified as **Household Living uses**.

## OTHER LAND USE CONSIDERATIONS<sup>50</sup>

- ◆ Building alterations that cost over a certain amount may require installation or upgrading of parking, bike parking, pedestrian amenities, and landscaping depending on use and location.
- ◆ Alterations to the building’s exterior may require Design Review or Historic Resource Review in certain locations.
- ◆ Changes that cause an increase of customers, traffic, or resources by have additional Systems Development Charges assessed by the Portland Bureau of Transportation, Portland Water Bureau, Portland Parks, and Portland Bureau of Environmental Services.

## Seismic Upgrades

While the Oregon Structural Specialty Code (OSSC) requires seismic upgrades only in the case of a change in an occupancy’s risk category, Portland has more stringent seismic upgrade thresholds. In addition to the OSSC requirements, Portland occupancy changes can also trigger seismic upgrade requirements based on the City’s hazard classification shown in Exhibit 11.<sup>51</sup> The entire building must be improved to meet the relevant seismic improvement standard below if, relative to the Baseline Occupancy of the buildings as of October 1, 2004, either:<sup>52</sup>

- ◆ The occupancy is changed to a higher hazard classification, *and if either* more than 1/3 of the building net floor area changes occupancy classification *or* if the occupant load increases by more than 149 occupants, *or*
- ◆ The occupancy is changed to the same or lower hazard classification, *and* the occupant load increases by more than 149 occupants.

**Exhibit 11: Portland Relative Hazard Classifications by Occupancy (early childhood care and education uses in bold)**

RELATIVE HAZARD CLASSIFICATION	OSSC OCCUPANCY CLASSIFICATION	SEISMIC IMPROVEMENT STANDARD
6 (Highest)	A, <b>E</b> , I-2, I-3, H-1, H-2, H-3, H-4, H-5	Oregon Structural Specialty Code or American Society of Civil Engineers (ASCE), Standard ASCE 41-Basic Performance
5	R-1, SR, I-1, <b>I-4</b>	

<sup>50</sup> Portland, [Change of Use or Change of Occupancy](#)

<sup>51</sup> Please note that the Relative Hazard Classifications are different from the risk categories established by the OSSC.

<sup>52</sup> The City also has a few other less common triggers for seismic upgrades, including unreinforced masonry cost triggers, unreinforced masonry reroof projects, and/or building alterations or additions.



		Objective Equivalent to New Buildings (Tier 3 Retrofit)
4	R-2	American Society of Civil Engineers 41-Basic Performance Objective for Existing Buildings (Tier 1 or Tier 2 Retrofit)
3	B, M	
2	F-1, F-2, S-1, S-2	
1 (Lowest)	<b>R-3, U</b>	

Source: Portland City Code [24.85.040 Change of Occupancy or Use](#) Table 24.85-A

## Permits and Procedures

A “permitted” child care proposal does not need a land use permit, and the applicant can go straight to building permitting, with the exception that a proposal not meeting standards or in a design overlay zone could be required to go through an Adjustment or Design Review. If daycare is in a conditional use zone, the provider will need to go through one of the processes shown in Exhibit 12:

- ◆ If the daycare is an additional conditional use in the same category or changing of a use in a similar use category, then it generally falls under the Type II process.
- ◆ If the daycare is a new conditional use, it generally falls under a Type III process.

### Exhibit 12: City of Portland Land Use Review Procedures

	TYPE II	TYPE III
<b>Review Authority</b>	Bureau of Development Services staff	Hearings Officer, Design Commission, or Historic Landmarks Commission
<b>Appeal Authority</b>	Hearings officer	City Council
<b>Completeness Check</b>	14 days	21 days
<b>Notice of application</b>	Noticing for public comment 21 days prior to notice of review	Noticing 20 days prior to public hearing, to be held within 51 days of complete application
<b>Notice of decision</b>	28 days from complete application	68 days from complete application
<b>Appeal period</b>	14 days from notice of decision	14 days from notice of decision
<b>Notice of appeal decision</b>	Approximately six weeks after appeal is filed	Approximately six weeks after appeal is filed

Source: City of Portland [Land Use Review Fees and Land Use Review Types](#)



# Appendix B: Department of Early Learning and Care Licensing Requirements

Both child care homes and centers must show proof of compliance with the following steps:

- ◆ **Floor plan review:** Providers must submit a building floor plan or drawing of the facility showing the dimensions of all rooms to be used (length and width), the placement of the kitchen and bathrooms, the locations of toilets, hand washing sinks, and fixtures and plumbing in the kitchen. It must also include a description of how each room will be used.
- ◆ **Fire and Life Safety Inspections:** Center-based facilities must pass a fire inspection, completed by the local fire marshal. The fire official will check that the building meets the Oregon Fire Code, has clear exits and stairwells, and sufficient fire extinguishers and smoke detectors.<sup>53</sup>
- ◆ **Sanitation Inspections:** Center-based facilities must pass a sanitation inspection, completed by the local environmental health specialist. Inspectors will check the water supply, heat and ventilation systems, waste disposal and cleaning practices in the facility, as well as ensure bathrooms and kitchens have the required number of toilets and sinks for how many children will be enrolled. These requirements typically extend beyond the requirements of the general building code.<sup>54</sup>
- ◆ **Lead testing:** Both center- and home-based facilities must have the building's water tested for lead by an accredited drinking water laboratory every six years.<sup>55</sup>

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<sup>53</sup> Department of Early Learning and Care [Rules for Certified Centers](#), page 101 (2024)

<sup>54</sup> Department of Early Learning and Care [Rules for Certified Centers](#), pages 111-121 (2024)

<sup>55</sup> Department of Early Learning and Care [Lead Testing Instructions](#) (2024)



# Appendix C: Building Requirements

## Exhibit 13: Licensing Facility Requirements for Certified Child care Centers

	SPACE REQUIREMENTS	OTHER REQUIREMENTS
<b>Activity Space</b> (OAR 414-305-0800)	<ul style="list-style-type: none"> <li>At least 35 square feet of activity space per child.</li> </ul>	
<b>Outdoor space</b> (OAR 414-305-0920)	<ul style="list-style-type: none"> <li>Must have at least 75 square feet of outdoor activity space per child.</li> <li>Play equipment must have adequate fall zones with a minimum of 6 feet of clearance from the perimeter of play equipment and twice the height of any swings.</li> <li>Must have access to shade.</li> <li>Can provide an alternative plan describing how the center will safely provide outdoor access.</li> </ul>	<ul style="list-style-type: none"> <li>Must be fenced off or otherwise enclosed; the fence must be at least 4 feet high with openings no larger than 3.5 inches.</li> <li>If a program has a playground, it must maintain a protective surfacing of 18 inches or higher, such as mulch; however, loose materials cannot be over concrete or asphalt (which must be covered in rubber).</li> </ul>
<b>Toilets</b> (OAR 414-305-0800)	<ul style="list-style-type: none"> <li>For children aged 2 to 3 years, must have at least one child-size toilet or toilet with training seat for every 10 children.</li> <li>For children over 3 years, must provide one toilet for every 15 children.</li> </ul>	<ul style="list-style-type: none"> <li>If the toilet is not located in or adjacent to the classroom, the center must submit a written alternative plan.</li> </ul>
<b>Sinks</b> (OAR 414-305-0800)	<ul style="list-style-type: none"> <li>Must provide at least one handwashing sink for every two toilets.</li> </ul>	<ul style="list-style-type: none"> <li>Handwashing sinks must meet ORS chapter 455 requirements.</li> </ul>
<b>Kitchen</b> (OAR 414-305-1100)	<ul style="list-style-type: none"> <li>Must be separate from any child care areas.</li> </ul>	<ul style="list-style-type: none"> <li>Dishwashing equipment must meet Oregon Health Authority rules.</li> </ul>
<b>Plumbing</b>	<ul style="list-style-type: none"> <li>Water must be tested for lead.</li> </ul>	
<b>Exits</b> (OSSC 1006)	<ul style="list-style-type: none"> <li>Exits must be within 75 feet of any child care areas.</li> </ul>	<ul style="list-style-type: none"> <li>Must comply with <a href="#">OSSC Chapter 10</a> egress requirements</li> </ul>
<b>Fire Safety</b>	<ul style="list-style-type: none"> <li>Comply with fire and life safety plans for Group E and Group I occupancies. (OSSC 107.3.5), including sprinklers if Group E over 12,000 square feet or Group I-4.</li> </ul>	

Source: Oregon Administrative Code [Section 414-305](#), OSSC



## Exhibit 14: Licensing Facility Requirements for Registered and Certified Family Care Homes

	REGISTERED FAMILY CARE HOME	CERTIFIED FAMILY CARE HOME
<b>Activity Space</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• At least 35 square feet of activity space for up to 12 children; 50 square feet per additional child. (OAR 414-350-140)</li> </ul>
<b>Outdoor space</b>	<ul style="list-style-type: none"> <li>• Must provide a balance of indoor and outdoor play, no space requirements. (OAR 414-205-0090)</li> </ul>	<ul style="list-style-type: none"> <li>• Must have safe access at least 75 square feet of outdoor activity space per child, with a barrier at least 4 feet high. (OAR 414-350-0150)</li> </ul>
<b>Toilets</b>	<ul style="list-style-type: none"> <li>• At least one flush toilet available. (OAR 414-205-0100)</li> </ul>	<ul style="list-style-type: none"> <li>• At least one flush toilet for up to 12 children; an additional toilet if up to 16 children. (OAR 414-350-0140)</li> </ul>
<b>Sinks</b>	<ul style="list-style-type: none"> <li>• At least one handwashing sink available. (OAR 414-205-0100)</li> </ul>	<ul style="list-style-type: none"> <li>• At least one handwashing sink for up to 12 children; an additional handwashing sink if up to 16 children. (OAR 414-350-0140)</li> </ul>
<b>Kitchen</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Does not apply to activity area requirements. (OAR 414-350-0010)</li> </ul>
<b>Plumbing</b>	<ul style="list-style-type: none"> <li>• Water must be tested for lead.</li> </ul>	<ul style="list-style-type: none"> <li>• Water must be tested for lead.</li> </ul>
<b>Exits</b>	<ul style="list-style-type: none"> <li>• All floor levels must have at least two useable exits, including windows. (OAR 414-205-0110)</li> </ul>	<ul style="list-style-type: none"> <li>• All rooms must have at least two useable exits, including windows. (OAR 414-350-0170)</li> </ul>
<b>Fire Safety</b>	<ul style="list-style-type: none"> <li>• In addition to fire extinguishers, and smoke alarms, the home must either have a sprinkler system or demonstrate the home has met other safety measures, such as locating care at the level of exit discharge. (OSSC 420.12)</li> </ul>	<ul style="list-style-type: none"> <li>• In addition to fire extinguishers, and smoke alarms, the home must either have a sprinkler system or demonstrate the home has met other safety measures, such as locating care at the level of exit discharge. (OSSC 420.12)</li> </ul>

Source: Oregon Administrative Code [Section 414-350](#) and [Section 414-205](#), OSSC

